DUTY OF JURY TO FIND FACTS AND FOLLOW LAW

Members of the jury, now that you have heard all the evidence and the arguments of the attorneys, it is my duty to instruct you on the law that applies to this case.

It is your duty to find the facts from all the evidence in the case. To those facts you will apply the law as I give it to you. You must follow the law as I give it to you whether you agree with it or not. You must not be influenced by any personal likes or dislikes, opinions, prejudices, or sympathy. That means that you must decide the case solely on the evidence before you. You will recall that you took an oath promising to do so at the beginning of the case.

In following my instructions, you must follow all of them and not single out some and ignore others; they are all equally important. Also, you must not read into these instructions, or into anything the Court may have said or done, any suggestion as to what verdict you should return -- that is a matter entirely up to you.

EVENTS PRECEDING THIS TRIAL

As I told you when the trial began, there was already a verdict in this case by another jury that Michael Solitro subjected Cornel Young, Jr. ("Cornel") to an unconstitutional seizure when he shot and killed him on the morning of January 28th, 2000. You must accept that verdict, even if, after hearing some evidence about the events of that evening, you believe you might have decided the matter differently.

You have heard in this trial that the Plaintiff and the Defendant agree to certain facts as to what happened on the night of January 28th, 2000 at Fidas. There are other areas where the facts are disputed, and you have heard testimony in connection with these factual disputes. It is up to you to determine which version of events to accept as you see necessary for resolving the question before you.

In the end, the first jury found that the Plaintiff had proven by a preponderance of the evidence that Officer Solitro's shooting of Cornel violated Cornel's constitutional rights, but that Saravia's shooting did not. Again, you are bound by and must accept the verdict against Officer Solitro.

The lawyers for the parties may seek to put the verdict from the first jury into some perspective by reading you some instructions given in that trial to the jury. This is a permissible form of argument by the lawyers.

WHAT IS EVIDENCE

The evidence from which you are able to decide what the facts are consists of:

1. the sworn testimony of witnesses (including testimony that was read into the record from prior proceedings and the entire testimony of Dr. Fyfe);

2. the exhibits which have been received into evidence; and

3. any facts to which the lawyers have agreed or stipulated.

Regarding stipulations, I remind you that a "stipulation" is an agreement between the parties that a certain fact is true.

WHAT IS NOT EVIDENCE

Certain things are not evidence, and you may not consider them in deciding what the facts are. I will list them for you:

1. Arguments and statements by lawyers are not evidence. The lawyers are not witnesses. What they have said in their opening statements and closing arguments, and at other times is intended to help you interpret the evidence, but it is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, your memory controls.

2. Questions and objections by lawyers are not evidence. Attorneys have a duty to their clients to object when they believe a question is improper under the rules of evidence. You should not be influenced by the objection or by the Court's ruling on it.

3. Testimony that has been excluded or stricken, or that you have been instructed to disregard, is not evidence and must not be considered.

4. Anything you may have seen or heard when the Court was not in session is not evidence. You are to decide the case solely on the evidence received at trial.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as the testimony of an eye witness. Circumstantial evidence is proof of one or more facts from which you could find another fact.

You should consider both kinds of evidence. As a general rule, the law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.

Direct evidence can prove a material fact by itself. It does not require any other evidence. It does not require you to draw any inferences. A witness's testimony is direct evidence when the witness testifies to what she saw, heard, or felt. In other words, when a witness testifies about what is known from her own personal knowledge by virtue of her own senses, what she sees, touches, or hears–that is direct evidence. The only question is whether you believe the witness's testimony. A document or physical object may also be direct evidence when it can prove a material fact by itself, without any other evidence or inference. You may, of course, have to determine the genuineness of the document or object.

Circumstantial evidence is the opposite of direct evidence. It cannot prove a material fact by itself. Rather, it is evidence that tends to prove a material fact when considered together with

other evidence and by drawing inferences. There is a simple example of circumstantial evidence that I used at the beginning of this trial that you may recall.

Assume that when you got up this morning it was a nice, sunny day. But when you looked around you noticed that the streets and sidewalks were very wet. You had no direct evidence that it rained during the night. But, on the combination of facts that I have asked you to assume, it would be reasonable and logical for you to infer that it had rained during the night.

Not all circumstantial evidence presents such a clear compelling inference; the strength of the inferences arising from circumstantial evidence is for you to determine. It is for you to decide how much weight to give to any evidence.

Inference from circumstantial evidence may be drawn on the basis of reason, experience, and common sense. Inferences may not, however, be drawn by guesswork, speculation, or conjecture.

The law does not require a party to introduce direct evidence. A party may prove a fact entirely on circumstantial evidence or upon a combination of direct and circumstantial evidence. Circumstantial evidence is not less valuable than direct evidence.

You are to consider all the evidence in the case, both direct and circumstantial, in determining what the facts are, and in arriving at your verdict.

DEPOSITIONS AND OTHER PRIOR TESTIMONY

Some of the testimony before you was presented in the form of depositions which have been received into evidence. A deposition is a procedure whereby a lawyer for a party questions a witness under oath in the presence of a court stenographer. You may consider the testimony of a witness at a deposition according to the same standards you would use to evaluate the testimony of a witness at trial.

CREDIBILITY OF WITNESSES

In deciding the facts of this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness says, or part of it, or none of it at all. In considering the testimony of any witness, you may take into account:

1. The opportunity and ability of the witness to see or hear or know the things testified to;

2. The witness's memory;

3. The witness's manner while testifying;

4. The witness's interest in the outcome of the case and any bias or prejudice the witness may have;

5. Whether other evidence contradicted the witness's testimony; and

6. The reasonableness of the witness's testimony in light of all the evidence.

EXPERT WITNESSES

During this trial, you have heard testimony from witnesses who claim to have specialized knowledge in a technical field. Such persons are sometimes referred to as expert witnesses. Because of their specialized knowledge, they are permitted to express opinions which may be helpful to you in determining the facts.

Since they do have specialized knowledge, the opinions of expert witnesses, whether expressed personally or in documents which have been admitted into evidence, should not be disregarded lightly.

On the other hand, you are not required to accept such opinions just because the witnesses have specialized knowledge.

In determining what weight to give to the testimony of a so-called expert witness, you should apply the same tests of credibility that apply to the testimony of any other witness. That is to say, you should consider such things as the witness':

-- opportunity to have observed the facts about which he testified; and

-- apparent candor or lack of candor.

In addition, you should take into account the witness':

-- qualifications, especially in comparison to the qualifications of expert witnesses who may have expressed contrary opinions; and

-- the accuracy of the facts upon which the witness's opinions were based.

In short, you should carefully consider the opinions of expert witnesses, but they are not necessarily conclusive.

TESTIMONY OF POLICE OFFICERS

You have heard the testimony of witnesses who are civilians and the testimony of witnesses who are police officers.

In evaluating this testimony, you are to apply the same standards of evaluation to each witness. You shall not give either greater or lesser weight to the testimony of a witness merely because of his or her occupation as a police officer.

WITNESS - IMPEACHMENT - PRIOR STATEMENTS

In assessing the credibility of a witness, you may also consider whether, on some prior occasion, the witness made statements that contradict the testimony he or she gave at the time of trial. If you conclude that a witness did, at some prior time, make statements that were materially different from what the witness said during this trial, you may take this into account in assessing the credibility of such witness, or determining the weight that you will give to such witness's testimony.

BURDEN OF PROOF

The law imposes on the Plaintiff the responsibility or burden of proving her claim. It is not up to the Defendant to disprove the claim. Furthermore, the Plaintiff must prove the things she claims by what is called a fair preponderance of the evidence, which I will now define in more detail.

BURDEN OF PROOF - FAIR PREPONDERANCE

I have just told you that the burden of proof in this case is on the party making the claim in question, and in a few minutes I am going to describe in detail just what the Plaintiff must prove in order to prevail on her claim.

The Plaintiff must prove her claim by what the law refers to as "a fair preponderance of the evidence" which is another way of saying that the party must prove them by "the greater weight of the evidence."

To put it another way, you must be satisfied that the evidence shows that what the party making a claim is claiming is "more probably true than not."

Do not confuse the burden of proving something by a fair preponderance of the evidence with the burden of proving something beyond a reasonable doubt. As most of you probably know or have heard, in a criminal case the prosecution must prove the defendant is guilty beyond a reasonable doubt. That is a very stringent standard of proof. However, this is not a criminal case. Therefore, in order to prevail, the Plaintiff need not prove her claim beyond a reasonable doubt; she need only prove it by a fair preponderance of the evidence.

Perhaps the best way to explain what is meant by a fair preponderance of the evidence is to ask you to visualize an old fashioned scale with two counter balancing arms and use it to

mentally weigh the evidence with respect to the claim being made by the Plaintiff.

If, after you have heard all the evidence relevant to the claim, you determine that the scale tips in favor of the Plaintiff, no matter how slightly it may tip, then the Plaintiff has sustained her burden of proving that particular claim to you by a fair preponderance of the evidence because she has made the scale tip in her favor.

If, on the other hand, you determine that the scale tips in favor of the Defendant, or that the scale is so evenly balanced that you cannot say whether it tips one way or the other, then the Plaintiff has failed to prove her claim by a fair preponderance of the evidence because she has not made the scale tip in her favor.

CIVIL RIGHTS - 42 U.S.C. § 1983 - STATUTE

I am now going to instruct you on the specific law that applies to this case. The law will guide you as to the factual determinations you must make. You must accept the law that I give you, whether you agree with it or not.

The federal statute upon which the Plaintiff's claim is based is known as the Civil Rights Act or 42 U.S.C. § 1983. Its purpose is to protect the constitutional rights of individuals. The relevant portion of that statute states:

> Every person who, under color of any statute, ordinance, regulation, custom or usage of any state . . ., subjects or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights, privileges or immunities secured by the constitution. . ., shall be liable to the party injured. . . .

CIVIL RIGHTS - 42 U.S.C. § 1983 - ELEMENTS

As you know, Officer Solitro is not a Defendant in this case; so, you must now determine whether the City should be held liable for providing inadequate protocols and training to Providence Police Department officers, including Solitro, regarding on-duty/off-duty confrontations.

The fact that an employee or employees of the City deprived Cornel of his federally protected rights is not itself a sufficient basis for imposing § 1983 liability against the City.

In order to hold the City of Providence liable under § 1983, the Plaintiff must prove the following three things:

1. First, the Plaintiff must prove that the violation of Cornel's constitutional rights was pursuant to a municipal policy or a long-standing custom or practice of the City; and

2. Second, the Plaintiff must prove that the final policymaker(s) for the City approved of the policy, custom, or practice, and were deliberately indifferent to the risks associated with the policy, custom, or practice; and

3. Third, the Plaintiff must prove that the City's policy, custom, or practice caused Solitro to violate Cornel's constitutional rights.

If you find that the Plaintiff has failed to establish any of these elements, you cannot hold the City liable.

EXISTENCE OF MUNICIPAL POLICY OR CUSTOM

A "policy" of the City is a written rule or guideline under the law. An unwritten rule or guideline can be a policy if it is a custom or practice that is a well-settled, persistent, widespread course of conduct by municipal officials having the force of law. In this case, the Plaintiff is asserting that the City of Providence had a combination of policies, protocols, and training that together amounted to a "City policy" of inadequate training on on-duty/off-duty confrontations. Whether there was such a policy (through a custom or practice) is a question of fact for you, the jury, to determine. In making this determination some factors for you to consider are how long the practice of having allegedly inadequate protocols and training existed, the number and seniority of City officials engaged in or on notice of the practice of giving the allegedly inadequate protocols and training, and the number of Providence Police Department officers who received such protocols and training. The fact that one employee of a municipal entity (such as Officer Solitro) deprived Cornel of a federal right on a single occasion is not <u>alone</u> a sufficient basis for imposing liability against the municipal entity. In order to hold a municipal entity liable under § 1983, the Plaintiff must demonstrate that Cornel's federally protected rights were violated pursuant to the enforcement of a municipal policy, custom, or practice.

Finally, you may only find liability against the City if you determine that Officer Solitro's violation of Cornel's constitutional rights was caused by the City's failure to train Officer Solitro pursuant to the policy, custom, or practice as I just discussed.

You have heard a considerable amount of evidence regarding the training in the 57th Academy (Officer Saraiva's and Young's class). You may consider evidence regarding the City's training of Cornel and Saraiva (and others) as evidence that Officer Solitro's alleged lack of training was part of a custom or practice of inadequately training on on-duty/off-duty interactions rather than a sound training program on on-duty/off-duty interactions that has occasionally been negligently administered. However, you may not consider Cornel's actions in connection with the issue of causation which I will discuss in a few minutes.

"FINAL POLICYMAKER"

In order for a custom or practice or policy to become sanctioned by the City it must be shown by the Plaintiff that this policy has been officially sanctioned or ordered by those municipal officials who have final policy-making authority. I am instructing you that, as a matter of law, Police Chief Urbano Prignano and Public Safety Commissioner John Partington possessed final authority to establish municipal policy with respect to the policies, protocols, and training concerning on-duty/off-duty confrontations.

An official to whom final policy-making authority has been delegated is an official whose actions can be said to represent a decision of the municipal entity itself. The policy-making official may cause injury by issuing orders, by ratifying a subordinate's decision and the basis for it, or by establishing a policy for municipal employees that, when followed by those employees, results in injury.

Where a final policymaker delegates authority to another public official, then the decisions made by the public official to whom the final policymaker has delegated authority do not constitute municipal policy unless the policymaker not only approves that decision, but also approves the basis for it.

Thus, if you find that Officer Solitro's unconstitutional acts were the result of or caused by a policy, custom, or practice that

the Chief of Police and/or the Public Safety Commissioner established, knew of or should have known of, or acquiesced in after delegation of authority to another, then you must also find the City to be liable.

DELIBERATE INDIFFERENCE

The next thing the Plaintiff must show is that the final policymaker(s) of the City, by adopting or following the policy, custom, or practice, were deliberately indifferent to the risks associated with such a policy, custom, or practice. Deliberate indifference does not require you to find that any of the City's officials in charge of training the police had a wrongful motive or state of mind. Deliberate indifference also does not require any prior occurrence of friendly fire in the City of Providence. Rather, deliberate indifference is defined by something called the "objective obviousness" test. This means that the City is deliberately indifferent if it disregarded a known or obvious risk of serious harm by its failure to develop protocols and training to avoid on-duty/off-duty confrontations. In other words, deliberate indifference means that despite having knowledge of an obvious risk (or being willfully blind to such a risk) resulting from on-duty/off-duty misidentifications, the City failed to take reasonable steps to prevent their continuation. It means that the City made a deliberate or conscious choice from available alternatives to follow a particular course of action in spite of its knowledge of, or willful blindness to, obvious risks associated with that course of action.

In resolving the issue of the City's liability, your focus must be on adequacy of the training program. That Solitro may have

been unsatisfactorily trained will not alone suffice to fasten liability on the City, for Solitro's shortcomings, if any, may have resulted from factors other than a faulty training program. It may be, for example, that an otherwise sound program has occasionally been negligently administered. It is not sufficient to prove that an injury or accident could have been avoided if Solitro had had better or more training, sufficient to equip him to avoid the particular injury-causing conduct. In addition, adequately trained officers occasionally make mistakes; the fact that they do says little about the training program or the legal basis for holding the City liable. In other words, you must ask whether Solitro's violation of Cornel's constitutional rights could have been avoided had Solitro been trained under a program that was not deficient. In considering this question, you must keep in mind that matters of judgment may have been involved in the incident, and that officers who are well trained are not free from error.

CAUSATION

Finally, if you find that the City was deliberately indifferent, you must determine whether its inadequate protocols and training were the cause, at least in part, of Solitro’s violation of Cornel's rights. In order to establish this, the Plaintiff must show that the inadequate protocols and training were closely related to the injury and was the moving force behind the constitutional violation.

To say the injury is closely related to the allegedly inadequate training and protocols means the Plaintiff must show that it was highly likely that the type of alleged deficiency in training would lead to the same type of injury alleged by the Plaintiff, namely the use of deadly force by a uniformed police officer upon an off-duty officer who was not wearing a uniform.

To find the City's inadequate training and protocols caused Solitro to violate Young's rights requires that while there may have been other factors in play in Solitro's actions when he shot Cornel, the City's training and protocols must have been the "moving force" behind the actions of Solitro.

In considering the issue of causation, you may not consider whether Cornel took actions that may have caused his own death.

SINGLE INCIDENT

In a case such as this one that involves a single incident, there are two principles to keep in mind. First, you cannot infer from a single incident alone the fact that a training program was inadequate. On the other hand, the Plaintiff can succeed on her claim that the City failed to adequately train Solitro without showing a pattern of previous constitutional violations. The Plaintiff can do so where the violation of a federal right is a highly predictable consequence of the failure to equip law enforcement officers with specific training and protocols to handle recurring situations. In other words, this would be the case if it can be said to be 'so obvious' that the alleged failure to adequately train officers regarding on-duty/off-duty confrontations is properly characterized as 'deliberate indifference' to constitutional rights. More specifically, if the City knew or should have known that a friendly fire shooting in violation of the Fourth Amendment was a predictable consequence of the Providence Police Department's failure to train on on-duty/off-duty interactions then the department was deliberately indifferent to Cornel's constitutional rights.

POST-INCIDENT EVIDENCE

You have heard some testimony regarding things that occurred after the incident. You may consider this evidence if, and only to the extent that, it provides reliable insight into the policy and/or training in force at the time of the incident, or into the state of mind of a policymaker(s) at the time of the incident. It is not necessary that the post-incident actions have arisen directly out of Cornel's shooting in order for them to be relevant to the policy or state of mind of policymakers at the time of the incident.

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 the Defendant is 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 the 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 the Defendant is liable. You need consider the question of damages only if you find that the Defendant is liable. If you do not find liability, no award of damages can be made.

Since damages are an element of her 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 her 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 guesses. 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. The Plaintiff, Mrs. Young, has brought this action on behalf of Cornel. You may therefore only award compensation for damages suffered by him. You may not award damages to Mrs. Young on the basis of Mrs. Young's bereavement or loss.

COMPENSATORY DAMAGES

If you find the Defendant liable to the Plaintiff for the failure to provide adequate protocols and training, then you must consider the question of damages. Damages are defined in law as that amount of money that will compensate an injured party for the harm or loss that he/she has sustained. The rationale behind compensatory damages is to restore a person to the position he/she was in prior to the harm or the loss. Compensatory damages, then, are the amount of money which will replace, as near as possible, the loss or harm caused to a person. In this regard, you may consider the previous instructions I have given on the matter of damages.

When you assess damages, you must not be oppressive or unconscionable, and you may assess only such damages as will fairly and reasonably compensate the Plaintiff insofar as the same may be computed in money. You must confine your deliberations to the evidence, and you must not indulge in guesswork, speculation or conjecture.

DAMAGES COMPENSATORY -

PERSONAL INJURY AND PAIN AND SUFFERING

If you find the Defendant liable, you also may award the Plaintiff damages for any bodily injuries and for any pain and suffering Cornel experienced as a result of the Defendant's wrongful conduct.

Any amount awarded for bodily injuries or pain and suffering should be based upon your consideration of the nature, extent and duration of such injuries and such pain and suffering. Conscious pain and suffering and emotional distress means pain and suffering of which there was some level of awareness by Cornel before he died.

It is difficult to measure bodily injuries and pain and suffering in terms of money. Nevertheless, you may not speculate or guess as to what constitutes fair compensation for bodily injuries or for pain and suffering.

Any award must be based on the evidence and what in your considered judgment constitutes fair and adequate compensation for such injuries and pain and suffering as have been proved.

The determination of that amount, if any, is solely for you the jury to make. Suggestions of the attorneys as to how that amount might be computed are not binding upon you. You may, however, consider them if you find them helpful.

DAMAGES - CALCULATION OF ECONOMIC DAMAGES

If you find for the Plaintiff, the law requires you to determine the Plaintiff's pecuniary damages based on the evidence presented at trial in the following manner:

First, you must determine the gross amount of Cornel's prospective income or earnings over the remainder of his life expectancy, including all estimated income that he would probably have earned by his own exertions, both physical and mental. Wages actually earned before the injury may be considered as proof of Cornel's earning capacity at that time. Standard life expectancy tables are competent evidence for assisting the jury in determination of the amount of damages to be awarded. Life expectancy tables are simply statistical averages. A person might live longer or die sooner than the time indicated by those tables.

Second, from that gross amount, you must subtract the estimated personal expenses that you find Cornel would probably have incurred for himself over the course of his life expectancy.

Third (and finally), you must reduce the remainder thus ascertained to its present value as of the date of your award.

In determining your award for pecuniary damages for wrongful death, you are permitted to consider evidence presented during trial concerning economic trends, including but not limited to projected purchasing power of money, inflation, and projected increase or decrease in the costs of living.

DAMAGES - PREJUDGMENT INTEREST

If you have determined that compensatory damages should be awarded to the Plaintiff, you must also decide whether to award interest. This lawsuit was begun years ago, and you may award interest on the sum which you have decided is an appropriate compensatory damage award, from that time to the present. Whether you do award interest should depend upon whether you conclude that interest is necessary to compensate the Plaintiff fully for any injury suffered, bearing in mind that the Plaintiff has not had the use of the damages you award during the time this litigation has been pending.

ELECTION OF FOREPERSON AND DUTY TO DELIBERATE

When you begin your deliberations, you should elect one member of the jury as your foreperson. The foreperson will preside over the deliberations and speak for you here in Court.

You will then discuss the case with your fellow jurors to reach agreement if you can do so. Your verdict must be unanimous.

Each of you must decide the case for yourself, but you should do so only after you have considered all of the evidence, discussed it fully with the other jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinion during the course of the deliberations if the discussion persuades you that you should. Do not come to a decision simply because other jurors think it is right.

VERDICT - UNANIMITY REQUIRED

In order to return a verdict in this case, all of you must agree as to what that verdict will be. You cannot return a verdict for either party unless your decision is unanimous.

Therefore there are two things that you should keep in mind during the course of your deliberations.

On the one hand, you should listen carefully as to what your fellow jurors have to say and should be open minded enough to change your opinion if you become convinced that it was incorrect.

On the other hand, you must recognize that each of you has an individual responsibility to vote for the verdict that you believe is the correct one based on the evidence that has been presented and the law as I have explained it. Accordingly, you should have the courage to stick to your opinion even though some or all of the other jurors may disagree as long as you have listened to their views with an open mind.

JURY RECOLLECTION CONTROLS – REHEARING TESTIMONY

If any reference by the Court or by counsel to matters of evidence does not coincide with your own recollection, it is your recollection which should control during your deliberations.

Occasionally, juries want to rehear testimony. Understand that generally speaking, your collective recollection should be sufficient for you to be able to deliberate effectively. However, if you feel that you need to rehear testimony, I will consider your request. However keep in mind that this is a time-consuming and difficult process, so if you think you need this, consider your request carefully and be as specific as possible.

COMMUNICATIONS WITH THE COURT

If it becomes necessary during your deliberations to communicate with me, you may send a note through the marshal, signed by the foreperson. No member of the jury should ever attempt to contact me except by a signed writing; and I will communicate with any member of the jury on anything concerning the case only in writing, or here in open court.

RETURN OF VERDICT

A verdict form has been prepared for you by the Court. After you have reached unanimous agreement on a verdict, your foreperson will fill in the form that has been given to you, sign and date it, and advise the Court that you are ready to return to the courtroom.

COPY OF INSTRUCTIONS

I have instructed you on the law that governs your deliberations. I will send into the jury room a written copy of my instructions. You are reminded, however, that the law is as I have given it to you from the bench; and the written copy is merely a guide to assist you.