

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

)	
ERIN CHIONCHIO, INDIVIDUALLY)	
AND AS THE APPOINTED)	
ADMINISTRATIX OF THE ESTATE OF)	
KATHLEEN CHIONCHIO,)	
Plaintiff,)	
v.)	
WILLIAM CORREIA AND SILVER LINE)	
BUILDING PRODUCTS, LLC,)	
Defendants.)	
)	

C. A. No. 1:13-cv-00678-M-LDA

JURY INSTRUCTIONS

I. GENERAL INSTRUCTIONS

Now that you have heard all of the evidence and the arguments of counsel, it is my job to instruct you on the law that is applicable to this case.

I will send a written copy of my instructions into the jury room.

A. PROVINCE OF THE COURT AND JURY

It is your duty as jurors to follow the law as I shall state it to you and to apply that law to the facts of the case, as you determine those facts to be from the evidence in this case. You are not to be concerned with the wisdom of any rule of law stated by me. You are not to single out one instruction alone as stating the law, but must consider the instructions as a whole.

Further, nothing I say in these instructions and nothing that I have said or done during the trial is to be taken as an indication that I have any opinion about the facts of the case. I do not. It is not my role to determine the facts, that it your role.

You must perform your duties as jurors without bias or prejudice as to any party. The law does not permit you to be governed by sympathy, prejudice, or public opinion. All parties --

and the law -- expect that you will carefully and impartially consider all the evidence, follow the law as it is now being given to you, and reach a just verdict, regardless of the consequences.

This case should be considered and decided by you as an action between persons of equal standing in the community, of equal worth, and holding the same or similar stations of life. All parties are entitled to the same fair trial at your hands. All parties stand equal before the law, and are to be dealt with as equals in a court of justice.

B. EVIDENCE IN THE CASE

In determining the facts in this case, you are to consider only the evidence that has been properly put before you. That evidence consists of the sworn testimony of witnesses and the exhibits which have been received into evidence. Evidence that the court admits in full is properly before you for your consideration; evidence that this court has stricken or refused to admit is not a proper subject for your deliberations and you should not consider it when reaching a verdict. Admitted evidence will be available to you in the jury room for consideration during your deliberations.

The fact that the Court admitted evidence over objection should not influence you in determining the weight you should give such evidence. Nor should statements made by counsel, either for or against the admission of such evidence, influence your determination of the weight you will give the evidence, if the evidence was admitted.

C. NOT EVIDENCE

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

D. CREDIBILITY OF WITNESSES

You are the sole judges of the credibility of the witnesses and the weight their testimony deserves. In deciding the facts of this case, you may have to decide which testimony to believe and which testimony not to believe. 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 that witness testified about;
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.

After making your own judgment, you may believe everything a witness says, or part of it, or none of it at all. Also, the weight of the evidence is not necessarily determined by the number of witnesses testifying to the existence or non-existence of any fact. You may find that the testimony of a small number of witnesses as to any fact is more credible than the testimony of a larger number of witnesses to the contrary.

You have heard the testimony of witnesses who are civilians and the testimony of witnesses who are members of the Rhode Island State Police. In evaluating this testimony, you are to apply the same standards of evaluation to each witness. You shall not give greater or lesser weight to the testimony of a witness merely because of his or her occupation as a member of the Rhode Island State Police.

E. EVIDENCE – DIRECT, INDIRECT, OR CIRCUMSTANTIAL

There are two types of evidence from which you may properly find the facts of this case. One is direct evidence – such as the testimony of an eyewitness. The other is indirect or circumstantial evidence – that is, the proof of a chain of circumstances pointing to the existence or non-existence of certain facts.

As a general rule, the law makes no distinction between direct or circumstantial evidence. You are simply required to find the facts in accordance with the preponderance of all the evidence in the case, both direct and circumstantial.

F. INFERENCES

In your consideration of the evidence in this case, you are allowed to make reasonable inferences from witnesses' testimony and the admitted exhibits. Inferences are deductions or conclusions that reason and common sense lead you to draw from facts that have been

established by the evidence in this case. Inferences, however, may not be based on pure speculation or conjecture.

Let me give you an example of a reasonable inference. If your mailbox was empty when you left home this morning, and you find mail in it when you go home tonight, you may infer that the letter carrier delivered the mail. Now, obviously, you didn't see the letter carrier deliver the mail, but from the facts that the mailbox was empty this morning and it is filled tonight, you can properly infer that the letter carrier came by in the interim and delivered the mail. That is all that we mean by an inference.

G. OPINION EVIDENCE - EXPERT WITNESS

While the rules of evidence ordinarily do not permit witnesses to testify as to opinions or conclusions, an exception exists for expert witnesses. These are witnesses who, by education and experience, have become experts in some art, science, profession, or calling. Expert witnesses may state their opinions, and the reasons for their opinions, on the subjects of their expertise, about matters that are relevant and material to the case before you.

If testimony from an expert witness is to have any evidentiary value, it must speak in terms of "probabilities" rather than mere "possibilities." Although absolute certainty is not required, the conclusions of an expert must be reached to a reasonable degree of certainty – that is, to a probability. In order for an expert's opinion to be considered by you, it must have substantial probative value and not be based on speculation, conjecture, or surmise.

You should give an expert opinion such weight as you think it deserves. If you conclude that the reasons given in support of the expert's opinion are not sound, or if you feel that the expert's opinion is outweighed by other evidence, you may disregard the opinion entirely.

H. BURDEN OF PROOF: PREPONDERANCE OF THE EVIDENCE

The burden is on the plaintiff in a civil action, such as this, to prove every essential element of her claims by a preponderance of the evidence. If the proof should fail to establish any essential element of the plaintiff's claim by a preponderance of the evidence, then you should find for the defendant. The defendant does not have any obligation to disprove that which the plaintiff asserts or claims.

To establish by "a preponderance of the evidence" means to prove that something is more probably true than not true. In other words, if you were looking at opposite ends of a scale, the plaintiff's evidence would have to make one end of the scale tip to its side.

When I say in these instructions that a party has the burden of proof on any proposition, or use the expression "if you find," I mean you must be persuaded, considering all the evidence in the case, that the proposition is more probably true than not true. This rule does not, of course, require proof to an absolute certainty or even a near certainty.

II. CASE-SPECIFIC INSTRUCTIONS

A. NATURE OF THE PLAINTIFF'S CLAIMS

This is a civil action brought by Erin Chionchio after her daughter, Kathleen Chionchio, was involved in a vehicular collision with a tractor-trailer driven by William Correia in the course of his employment by Silver Line Building Products, LLC. As Mr. Correia's employer, Silver Line Building Products, LLC accepts responsibility for Mr. Correia's conduct in this case.

The collision occurred on Interstate 95 in Warwick, at around 1:20 am on October 16, 2010. Kathleen Chionchio suffered head injuries, was in a coma for an extended period of time, and died in the hospital on April 3, 2011. Erin Chionchio is suing the defendant on her own behalf, and also in her capacity as the Administratrix of her daughter's estate.

You are asked to determine whether Mr. Correia is liable for the harm sustained by the plaintiff, and if so, how much money to award in damages.

B. COUNT ONE: NEGLIGENCE

Ms. Chionchio brings a single claim for negligence. The law of negligence is founded on the concept that, under certain circumstances, we each owe a duty to others to act with care for others' safety, so that we do not jeopardize their safety. This duty is called the duty of care. Negligence is some conduct that breaches the duty of care owed by one person to another person.

1. NEGLIGENCE DEFINED

Generally, negligence is the failure of one person, acting in a given set of circumstances, to exercise that degree of care for the safety of another person that a reasonably prudent person would ordinarily exercise in the same or similar circumstances.

Negligence may result from not doing something that a reasonably prudent person would do or it may result from doing something that a reasonably prudent person would not do under the same or similar circumstances.

2. DUTY OF CARE

In this case Ms. Chionchio alleges that Mr. Correia was negligent in his use and operation of a commercial motor vehicle, and that his negligence caused her daughter Kathleen's injuries and death. Ms. Chionchio must prove by a preponderance of the evidence the following four elements:

- a) That Mr. Correia owed Kathleen a duty of care.
- b) That Mr. Correia breached his duty of care.
- c) That Kathleen and Erin Chionchio suffered injury or harm.

- d) That Mr. Correia's breach of duty was the proximate and factual cause of the harm suffered by Kathleen and Erin Chionchio.

3. DUTY OF CARE WHEN OPERATING A MOTOR VEHICLE

Every operator of a motor vehicle owes a duty of care to other drivers that are reasonably expected to be on the road or highway. The duty is twofold.

First, every operator of a motor vehicle has a duty to keep a proper lookout so that he or she can ascertain the circumstances attending the operation of the motor vehicle. In this regard, the operator of a motor vehicle should look in a careful and efficient manner so that he or she can observe and take into consideration the surrounding circumstances, including the presence and location of other motor vehicles, the speed and distance of other vehicles, the conditions on the highway, and the physical characteristics of the highway itself.

Second, every operator of a motor vehicle has a duty to keep his or her vehicle under control. In keeping his or her vehicle under control, a driver should operate it in a safe manner so that others are not endangered by the manner in which the driver operates it.

Furthermore, no person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having due regard to the actual and potential hazards existing at the time. In every event, speed shall be so controlled as may be necessary to avoid colliding with any person or vehicle.

However, the operator of a vehicle on a public highway is not required to anticipate negligence on the part of other drivers. A person operating a motor vehicle is entitled to base his or her conduct on the assumption that other persons driving on the highways are going to exercise reasonable care. A driver is not expected to know or anticipate that another driver may do something negligent or out of the ordinary.

In discharging these duties, the operator of a motor vehicle must exercise that degree of care and diligence that the ordinary reasonably prudent person would exercise under the same or similar circumstances. The greater the appreciable danger presented by the observable circumstances, the greater degree of care that a reasonably prudent driver must exercise in order to constitute ordinary care.

a) Violation of Motor Vehicle Laws or Administrative Rules and Regulations

If you find that William Correia or Kathleen Chionchio violated any speed limit, safety statute, ordinance, regulation, or administrative rule applicable to them, and that the collision was one of the things that the rule was designed to prevent, then that violation is some evidence of negligence on the part of the party that violated it. However, you need not find a violation of law in order to hold any party liable for negligence in causing or contributing to causing the plaintiff's injuries.

b) Traffic Rules

Rhode Island traffic laws may be relevant to resolving the issues of duty and breach in this case.

Rhode Island General Laws section 31-16-5 states that "No person shall turn a vehicle from a direct course or move right or left on a roadway, unless and until the movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal . . . in the event that other traffic may be affected by the movement."

RIGL section 31-15-11 states that "Whenever any roadway is divided into two or more clearly marked lanes for traffic: . . . a vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety."

RIGL section 31-16-6 states that “A signal or intention to turn right or left when required shall be given continuously and not less than the last one hundred feet traveled by the vehicle before turning.”

c) Commercial Driver Standard of Care

Tractor-trailer drivers are subject to the same standard of care as any other motorist. The standard of care applicable to tractor-trailer drivers is neither greater nor lesser than the standard of care applicable to any other driver of a vehicle on the highways.

Under the applicable standards of care “[n]o driver shall operate a commercial motor vehicle, and a motor carrier shall not require or permit a driver to operate a commercial motor vehicle, while the driver’s ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him [or] her to begin or continue to operate the commercial motor vehicle. Furthermore, tractor-trailer drivers may not drive without first taking 10 consecutive hours off duty.

4. BREACH

The second element that a party must prove by a preponderance of the evidence is that the driver did not act in the way that a prudent person would have acted in these circumstances. Your determination of how a prudent person would have acted in these circumstances will form the basis of what is reasonable care under the facts of this case.

After making this determination, you are to compare the standard of reasonable care of a prudent person with the type of care exercised by the parties. In determining whether or not the parties acted with reasonable care, you are to consider not only whether they knew of the risks involved, but also whether they should have known of the risks. The test is an objective one.

If you find that any party did not exercise the amount of care that a reasonably prudent person would have exercised under the same circumstances, then you must find that that party breached his or her duty of care.

However, the mere fact that an injury occurred does not necessarily mean that someone has been negligent.

5. RESPONDEAT SUPERIOR – EMPLOYER LIABILITY

An employer is liable for the acts of an employee when the employee is acting within the scope of his or her employment. In this case, when Mr. Correia was driving the tractor-trailer on highway 95, he was acting within the scope of his employment by Silver Line Building Products, LLC. If you find that the plaintiff's injuries were proximately caused by Mr. Correia's negligence, then Silver Line Building Products, LLC is legally responsible for his negligence.

6. CAUSATION

If you decide that Mr. Correia was negligent, you must then consider whether his negligent conduct caused Ms. Chionchio's and Kathleen's injuries. To prevail, the plaintiff must show by a preponderance of evidence that Mr. Correia's conduct was both the factual and the proximate cause of Kathleen's and Ms. Chionchio's injuries.

7. FACTUAL CAUSE

An action or lack of action is a factual cause of injury if, but for that action or lack of action, the injury would not have occurred. In this case, Mr. Correia's alleged negligence is the factual cause of the plaintiff's injuries if you find that but for his negligence, Kathleen Chionchio would not have suffered the injuries that she suffered.

8. PROXIMATE CAUSE

An action or lack of action is a proximate cause of injury if it is a substantial factor in causing injury. If the defendant's conduct is not a substantial factor in the harm suffered by the plaintiff, then the defendant should not be held responsible for his negligence. The question is to what extent did the defendant's negligence cause the plaintiff's injuries? The law requires that the connection between the conduct and the resulting harm be legally sufficient, that is, something more than insubstantial or insignificant.

A cause that is a proximate cause may be the sole or only cause of an injury. Or, it may be one of two or more causes of an injury, some of which are proximate causes and some of which are not. It need not be the last or nearest cause. A cause may be a proximate cause even if it comes together with or unites with some other cause and produces the injury. The test is whether the particular cause at issue is a substantial factor or whether it is merely incidental.

9. COMPARATIVE NEGLIGENCE

While Ms. Chionchio claims that the vehicle collision that injured her daughter was entirely Mr. Correia's fault, Mr. Correia claims that Kathleen herself was negligent, and that her own negligence caused her injuries. We have a law in Rhode Island called "comparative negligence" that requires you, the jury, to compare the negligence, if any, of William Correia to the negligence, if any, of Kathleen Chionchio.

Unlike the previous elements, where Ms. Chionchio has the burden of proof, on this issue, the defendant has the burden of proving by a preponderance of the evidence that Kathleen was negligent and that her negligence contributed to causing her injuries.

When you are determining whether or not Kathleen was negligent, remember the instructions on causation. For the comparative negligence analysis to apply, Kathleen's

negligence must have contributed to the cause of her injuries. If you are convinced by a preponderance of the evidence that Kathleen was negligent, you are to compare her negligence to the negligence of Mr. Correia. To accomplish this comparison, determine the percentage that Kathleen was negligent and the percentage that Mr. Correia was negligent. The combined total of the negligence of Kathleen Chionchio and William Correia must equal 100 percent.

In the event you find Kathleen to be negligent, her damages will be diminished by the percentage of her own negligence. You should write in the full amount of the damages without making any deduction for comparative negligence, keeping in mind that the clerk will make any such deduction after you render your verdict.

C. EVIDENTIARY INSTRUCTIONS

1. SPOLIATION

If you find that the defendants destroyed or obliterated evidence that they knew would be relevant to a contested issue in this case and knew at the time they did so that there was a potential for prosecution, then you may infer, but you are not required to infer, that the contents of the destroyed evidence were unfavorable to the defendants.

2. SEATBELT

In this case, there has been no evidence admitted concerning the use or non-use of seatbelts by either party. You shall not consider the use or non-use of a seatbelt by either party in connection with your deliberations because such information is not relevant to any issues in this case. Accordingly, do not speculate or make any inference with respect to the use or non-use of seatbelts when considering whether the parties were negligent, whether negligence was the cause of any injuries, or when determining the nature and extent of any damages.

D. DAMAGES

The fourth element the plaintiff must prove is damages. You will only reach the issue of damages if you find that Mr. Correia was negligent and that his negligence caused injury to the plaintiff.

(a) As with all the other elements, the plaintiff bears the burden of proving her damages by a preponderance of the evidence.

(b) The purpose of the law in awarding damages is to compensate an injured person for the losses incurred because of another person's negligent conduct.

(c) The object is to try to restore the person to the position she would have been in had the wrong not occurred. The purpose is not to reward the plaintiff and not to punish the defendant. Damages are to be awarded as a fair and reasonable compensation for the legal wrong done to Kathleen and Erin Chionchio by the defendant.

(d) You must put aside your personal feelings during your deliberations and decide this case as the evidence and law dictate.

(e) It is your obligation to assess what is fair, adequate, and just. You must use your wisdom and judgment and your sense of basic justice to translate into dollars the amount that will fairly and reasonably compensate Ms. Chionchio for her and Kathleen's injuries. You must be guided by your common sense and your conscience.

Damages are defined as the amount of money which will compensate an injured party for the harm or loss which has been sustained — that will replace, as near as possible, a loss or harm caused to a person. In determining the amount of damages that Ms. Chionchio is entitled to recover, there are certain areas that you should take into consideration:

1. PAIN AND SUFFERING

The first area of damages is conscious pain and suffering. Pain and suffering are of two types: physical and mental. The Estate of Kathleen Chionchio is entitled to be compensated for the conscious pain and suffering that Kathleen endured as a result of Mr. Correia's negligence.

- i) For conscious physical pain and suffering, you are to take into account the bodily pain and suffering Kathleen endured between the date of the collision and the date of her death.
- ii) Conscious mental pain and suffering includes any and all nervous shock, anxiety, embarrassment, or mental anguish Kathleen suffered resulting from the injury.
- iii) Taking into consideration the nature of the injury, you are to determine what would be a fair and reasonable figure to compensate Kathleen. You may consider the extent to which Kathleen's injuries caused her a loss of pleasures while she was alive that she otherwise probably would have had in the form of work or play or family life or otherwise. The Estate of Kathleen Chionchio is entitled to full compensation for any reduction in the enjoyment of life that you conclude resulted from this accident during the course of Kathleen's life.
- iv) To arrive at a monetary figure for Kathleen's pain and suffering, you must use your own good sense, background, and experience in determining what would be a fair and reasonable figure to compensate for conscious physical and mental suffering such as you find has been proved by the evidence.

2. MEDICAL AND FUNERAL EXPENSES

The next area of damages that you are to consider is medical, hospital, nursing, burial and funeral expenses incurred by Kathleen that were proximately caused by Mr. Correia's negligence.

- i) The Estate of Kathleen Chionchio is entitled to be compensated for those expenses that were reasonable in amount and that were reasonably necessary. Therefore, you must determine whether the expense was reasonably related to the treatment, care, burial, or funeral of Kathleen, and whether the charge itself was reasonable.
- ii) Whether any insurer, such as Medicare or Medicaid, actually paid for any services rendered is irrelevant and you should not speculate about it. If any insurer did pay for services rendered, they will be entitled to be reimbursed from any recovery that you award to the plaintiff. You must disregard the issue of insurance during your deliberations.

3. LOST EARNING CAPACITY

The third area of damages for your consideration is loss of earning capacity to the Estate of Kathleen Chionchio.

Whether we are employed, are retired, or never have worked in our lives, each of us has the ability to earn money, which is called an earning capacity. The ability, the capacity to earn money, varies from individual to individual depending upon a number of factors. Such factors may include evidence of earnings before and after the injury, occupation, education, capacity, training, experience, health, habits, talents or skills that a person has, intelligence and industry.

If someone hurts us so that we cannot exercise our abilities for whatever length of time and that earning capacity is affected, then that is an area or element of damages to be considered by you. Furthermore, a person may have an earning capacity in excess of the wages paid her in the job that she happens to have had at the time of the injury.

Evidence of wages paid is but one factor in your determination of diminution of earning capacity. Bear in mind that it is the diminution of earning capacity of Kathleen, and not some standard of a normal person in her position, that furnishes the test.

Therefore, you may consider evidence of what Kathleen did until the collision, what her interests were, what her training and experience had been, what her talents were, and generally what Kathleen was like in order to help determine her capacity to earn since the accident and into the future. You may not take into account anything that is merely possible, speculative, or imaginative. Rather, your award must be based on reasonable probability and can be made on the basis of your collective common knowledge.

If you conclude that William Correia negligently caused Kathleen Chionchio's death, then you may calculate a sum of money to compensate the Estate of Kathleen Chionchio for the loss of earning capacity from the date of the accident until the date that Kathleen would no longer have been able to earn money, had there not been an accident.

4. CALCULATING TOTAL DAMAGES

In awarding damages, you must each make a judgment as to what amount will fully, fairly, and adequately compensate the Estate of Kathleen Chionchio for the losses you find she has incurred. You are not allowed to average, that is, to assess the damages or percentages of legal fault found by each of you, and then divide by the number of jurors and agree that the result

shall be your verdict. There must not be any overlapping of the various elements constituting the damages. The total sum must be fair compensation for the entire injury, no more and no less.

5. LOSS OF CONSORTIUM

In addition to the damages to the Estate of Kathleen Chionchio just described to you, Erin Chionchio has an independent claim to recover for the damages she has suffered and will continue to suffer because of Mr. Correia's alleged negligence. This type of claim is called loss of society and companionship, and it allows recovery to the parents of a deceased adult child for damages caused by the negligence of a third person. Ms. Chionchio is entitled to recover for the loss of consortium for the period of time that Kathleen survived after the accident as well as for the loss of consortium she has experienced and will continue to experience since Kathleen's death.

This is a right that grows out of the relationship between a parent and child. It is a right to enjoy the society and companionship and the affection as a part of the parent-child relationship. Therefore, if you find that as a result of defendants' acts or omissions, Ms. Chionchio has suffered, or is reasonably certain to suffer in the future, a loss of society and companionship, you should fairly and reasonably compensate her for the loss. To determine damages for the loss of companionship and society you may consider: (1) the loss of comfort, solace, or moral support; (2) any restrictions on social and recreational life; and (3) any deprivation of the full enjoyment of the parent-child relationship.

You must make your determination as to whether there was a loss of consortium, and if so, the amount of damages, based on your own common sense, good judgment, experience, and conscience. There is no special formula or rule to measure a fair amount for loss of consortium.

III. FINAL PROCEDURAL INSTRUCTIONS

Ladies and Gentleman, in a moment I will dismiss you so that you may commence your deliberations. However, before I do that, I need to give you some instructions about the procedures you must use in the course of your deliberations.

As I said at the beginning of my instructions, you must not allow prejudice, sympathy, or compassion to influence you in the course of your deliberations. That does not mean that you should approach this case in an intellectual vacuum. You are not required to put aside your experiences and observations in the ordinary, everyday affairs of life. Indeed, your experiences and observations in the ordinary, everyday affairs of life are essential to your exercise of reasonably sound judgment and discretion in the course of your deliberations; and it is your right and duty to consider the evidence in the light of such experience and observations. But you must not allow prejudice, sympathy, or compassion to cloud your examination of the evidence or influence your determination of the facts.

During your deliberations, you must not communicate with or provide any information to anyone outside of the jury room by any means about this case. You may not use any electronic device or media, such as the telephone, a cell phone, or computer. You may not communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict. You can only discuss the case in the jury room with your fellow jurors during deliberations.

Now, in order for you to return a final verdict, your decision must be unanimous. That means that you cannot return a verdict unless and until all seven of you are in agreement as to the verdict.

Therefore, in the course of your deliberations and in your consideration of the evidence, you should exercise reasonable and intelligent judgment. It is not required that you yield your conviction simply because a majority holds to the contrary view, but in pursuing your deliberations you should keep your minds reasonably open to conviction with respect to the point in dispute so that you will not be precluded or prevented from achieving a unanimous verdict by mere stubbornness. It is your right to maintain your conviction. Each vote of each juror is as important as the vote of any other juror, and you need not give up your sincerely held conviction simply because a majority holds to the contrary.

I am designating juror # __, _____, as the Foreperson of this jury. _____, it will be your responsibility to organize the group and facilitate organized and healthy deliberations. The Foreperson's opinion, voice, or vote, however, is no more meaningful than any other juror.

When you are in the jury room, you will be provided with the evidence that has been admitted in this case. It may take us a few minutes to gather it up, but as soon as we do, it will be brought to the jury room.

You will also be given a verdict form. When you have reached a verdict, the Foreperson will fill out that form and sign it. Once the verdict form is complete, you will inform the Court Security Officer.

[REVIEW OF VERDICT FORM]

If, in the course of your deliberations, you deem it necessary to be further instructed or assisted by the Court in any way, the Foreperson should reduce such request or question to writing, sign it, and give it to the Court Security Officer in whose charge you will now be placed. The Court Security Officer will then bring such written request to me and I, in consultation with

the attorneys, will determine an appropriate response. Other than this method, please do not attempt to communicate privately or in any other way with the Court or with anyone outside the jury room.