

PRELIMINARY INSTRUCTIONS – SUMMARY JURY TRIALS

Ladies and Gentlemen of the jury, as I have previously stated, this is a civil trial called a summary jury trial, and you have been selected to decide this case. You will note that a jury of six has been drawn. During the trial, the function of the court is to instruct the jurors with respect to the principles of law governing the case and the jury is required to accept and be controlled by the law as stated by the court.

On the other hand, you are the sole judges of the evidence submitted during the course of the trial. This is a summary jury trial proceeding, which is unique in nature. The evidence in this trial will be presented through the attorneys for the parties. The attorneys may summarize and comment on the evidence and may summarize or quote directly from depositions, interrogatories, requests for admissions, documentary evidence and sworn statements of potential witnesses. However, no witness' testimony may be referred to unless the reference is based upon discovery or upon a written sworn statement of the witness, or upon the sworn affidavit of counsel that the witness would be called to trial and will not sign an affidavit of counsel, and that counsel has been told the substance of the witness' proposed testimony.

The weight given to the summary of the evidence, the inferences to be drawn therefrom and the conclusions to be reached upon all facts, are to be made by you and you alone. Each litigant in the summary jury trial proceeding will have up to one hour for case presentation.

During the course of these proceedings, the attorneys may make objections as evidence is offered, or they may address motions to the court. They have a right and indeed a duty to make such objections and motions when it seems to them to be in the proper interest of their clients. The court has a duty to rule upon them and you should draw no inferences based on the number of side bar conferences held or the rulings on motions, as these are procedural matters handled outside your presence. You should not conclude that because I rule one way or another that I have any feelings about the outcome of the case. I do not. But even if I did, you have to disregard them since you are the sole judges of the facts.

In the course of these proceedings, we may have recesses, and I would ask that you not discuss the case until you are ready to deliberate and have heard the entire summations of counsel and the charge of the court.

Following the introduction of the evidence, you will receive your final instructions on the law and you will retire to consider your verdict. Please keep an open mind and pay close attention to the exhibits presented. I shall now ask counsel to commence this summary jury trial.

JUDGE'S INSTRUCTIONS – SUMMARY JURY TRIAL TAPE

Jury, I'm pleased that the six of you were selected to hear this case and I think that you are going to enjoy your service to the parties and to the government.

Maybe you have read about the flood of litigation that is engulfing the courts of this country. And perhaps you've even read about the lengthy delays between the time someone files a civil law suit and the time that it is actually tried and finished.

This you may know. It costs the parties large sums of money to prepare and try a case. Jurors, like yourself, are asked to devote, in some instances, large amounts of time. Perhaps 15 witnesses would testify, 50 exhibits would be received. After two or three weeks' time, the trial is finally over. That's the way an ordinary trial goes and one of the reasons why we have these gigantic delays.

Now, what you may not know is that the lawyers by court rules have a right to do an immense amount of what the lawyers call discovery. They have a right to talk to every single witness in the case and interview them under oath with both lawyers present. By the time the trial starts, each lawyer knows everything the witness is going to say.

In light of the burden of an ordinary trial, these lawyers and their clients have agreed to present this case in a modified fashion. The lawyers are going to summarize all the evidence and that should come as good news to you because we're going to be able to finish this trial in a single day. You are going to hear the entire case today. I am certain that you will be able to resolve this matter and this case will be over.

You will have to be particularly attentive to the introduction of evidence. Since all the evidence is presented within a very short period of time, each lawyer has about an hour to present to you the very best part of their client's case.

Although the lawyers present the evidence, they do not necessarily know who should win this case. This matter is contested and this is the reason why you, the jurors, are needed. You are going to have the responsibility of coming back and informing this court and these lawyers which party is right and which party is wrong. Please listen closely as the lawyers explain their cases.

The plaintiff, through counsel, will present his/her case first because the plaintiff has the burden of proof. The "burden of proof" simply means that the plaintiff has the responsibility of

proving that his/her proposition is more likely true than not true. The plaintiff will take somewhat less than one hour. The defendant presents his/her case next, which will take almost exactly one hour. Then the plaintiff will get a little extra time to do what the law calls rebuttal. That is to refute the defendant's case.

When that is finished – plaintiff, defendant, plaintiff – I will give you some brief instructions on what law you'll need to apply in order to be able to decide this case. After that, I will direct the court attendant to take you to the jury deliberation room. When you've reached a verdict, you'll come back and tell us your decision. I believe we will conclude this case today.

GENERAL VOIR DIRE – SUMMARY JURY TRIALS

I am Judge _____, and I will be presiding throughout this case. The case in which we are about to select a jury is a civil case. The first step in this trial is the selection of a jury. The purpose of jury selection is to obtain jurors who are fair and impartial. In that light, I ask that you answer my questions frankly and honestly. This case is expected to last only a few hours. It is known as a summary jury trial.

A summary jury trial is a unique style of presenting a civil case. A summary jury trial is an abbreviated trial before me, the judge, and you, the jury. Counsel in this case have prepared and will present to you a summary of their cases. Upon its conclusion, after I have charged you on the law, you will render a verdict in regard to the matters before you.

All the evidence in this matter shall be presented to you through the attorneys for the parties. No witnesses will be called to testify but may be introduced by reference. The attorneys may summarize or comment on the evidence and may summarize or quote directly from depositions, interrogatories, requests for admissions, documentary evidence and sworn statements of potential witnesses.

At the conclusion of the trial, I will charge you as to the law and you will render your verdict.

I am now going to ask you the following questions:

1. Does anyone feel that he or she would not be impartial in this case or is there anyone who cannot serve because of the length of the summary jury trial? This case involves (state case type).
2. (Introduce the attorneys, providing names, addresses, law firm and associates.) Does anyone know or, has anyone been represented by or involved in a lawsuit in which any of the attorneys or their law firms may have been involved?
3. (Introduce the plaintiff and defendant) Do any of you know either the plaintiff or the defendant and, if so, to what extent?
4. (Read the list of witnesses to be introduced via statements) Do any of you know any of these witnesses and if so, to what extent?
5. (Explain the nature of the case in an abbreviated form and have the jurors introduce themselves, giving name, address, marital status, job description, spouse's

- occupation, number of children and their ages.) Have any of you ever appeared as a party or witness in a matter of similar nature?
6. Have you or any member of your family has ever been involved in this type of case?
 7. Would you have difficulty in applying the laws as given to you by me and could you put aside any preconceived notion as to what the law should be?
 8. Do you have any defect or disability which would make it difficult for you to follow or evaluate the evidence in the case?
 9. Is there any reason, aside from the questions already asked, which would cause you to feel that you would rather not sit on this jury?
 10. Have any of you ever served on a petit jury or grand jury? If so, when and where?

INSTRUCTION TO THE JURY BEFORE THEY DELIBERATE
SUMMARY JURY TRIALS

Ladies and Gentlemen of the jury, I have now given you my charge and ask you to retire and return a verdict by answering the interrogatories that I have submitted to you. As I explained earlier, this summary jury trial is a unique proceeding. I am going to ask, after you return your verdict, that the court and the attorneys be given an opportunity to discuss your verdict with you. If the majority of you feel that you do not want to talk to the attorneys and the court concerning your verdict, I would ask that you submit an anonymous statement of each jurist's findings as to liability and/or damages with your thoughts on this case.

A summary jury trial is an extremely unique procedure and is being employed in this case and in this case alone. If you are called for further jury service, you should disregard what went on in this particular case.

You may now retire and upon reaching a verdict, your foreman or forelady can indicate to me whether you desire to give the court and the attorneys a written statement in an anonymous fashion, or whether you would be willing to give us a consensus verdict by discussing fully and freely the verdict with the court and the lawyers.

Please begin your deliberations.

SUMMARY JURY TRIAL CHARGE

We are a system of jurisprudence; the Judge and the jury have separate and distinct functions. Each is supreme in its own sphere.

It is the function of the Judge to preside over the trial, to see that it is conducted in accordance with well-established principles and rules of law, to make decisions on questions of law that are presented, and at the conclusion of the trial, to do exactly what I'm now doing, charge you ladies and gentlemen with what the law is in the State of New Jersey, as to the case now before you.

The Judge who presides is, for the purposes of the trial, the final arbiter of questions of law and the jury, in its deliberations, will be governed by the law as given to it by the Court.

As to the facts, however, please keep this unwavering principle in your minds at all times. You, ladies and gentlemen, are the sole judge of the facts.

You have heard a unique presentation in a civil case. As I explained to you earlier, all evidence has been presented through the attorneys for the parties. These attorneys have had permission to summarize and comment on the evidence and have summarized or quoted directly from depositions, interrogatories, requests for admissions, documentary evidence and sworn statements of potential witnesses. Counsel has summarized the case for you.

As I have advised, you ladies and gentlemen are the sole judge of the facts as presented to you in this summary fashion. In discharging this function, you are the sole judge of the credibility and believability of the evidence and the weight to be given to the exhibits as presented in these jury summary trial proceedings, and of the reasonable inferences and ultimate conclusions to be reached upon the facts.

Questions of law or procedure are not to be given any consideration by you in your deliberation. Under no circumstances, ladies and gentlemen, should your deliberations be affected or diverted by an appeal to bias, passion or prejudice against any of the parties or influenced by any pity or sympathy in favor of any of the parties.

In every respect, your judgment should be considered, deliberate and objective, deriving its force and validity from the facts and from the inferences reasonably and logically supported by the testimony in this courtroom.

If it becomes necessary for you to communicate with me during your deliberations, you may send a note to me through your foreman or forelady and through one of my attendants.

This is a civil case. Consequently, your verdict may be, but need not be, unanimous. When five of your members have agreed upon a verdict, that verdict may be returned to the Court. It is not necessary for the same five to agree on each issue. By that I mean, the five jurors agreeing as to the first answer need not be the same five jurors agreeing on the second answer.

Of course, if five of you agree that the answer to number one is “no,” then, you should cease your deliberations and return your verdict.

The case which you have just heard in a summary fashion is a (in her insert the type – products liability, assault and battery, damages, etc.).