

the verdict form.

As we discussed earlier, as jurors it is your exclusive duty to decide all questions of fact submitted to you and for that purpose to determine the effect and value of the evidence.

You must not be influenced by sympathy, bias, prejudice or passion.

You are not to single out any particular part of the instructions and ignore the rest, but you are to consider all the instructions as a whole and regard each in the light of all the others.

These instructions are in addition to the instructions you have already received.

I. GENERAL INSTRUCTIONS

You have found that Jackson National engaged in conduct that makes it subject to punitive damages. It is now your task to decide what amount, if any, it should be required to pay in punitive damages to the plaintiff. The instructions that follow are intended to assist you in that task by explaining the purposes for imposing punitive damages and identifying considerations that you should weigh during your deliberations.

A. Punitive Damages - Amount

It is my duty to instruct you as to the proper measure of punitive damages to be applied in this case. By instructing you regarding damages, I am not indicating, one way or the other, that I have any opinion regarding whether or not damages should be awarded in this case.

Punitive damages are intended to punish misconduct and to deter similar misconduct in the future. The plaintiff has the burden of proving by a preponderance of the evidence the amount of punitive damages that you should award. In making your decision you must consider the instructions I have already given you and also the following:

You may consider:

1. The defendant's net worth and financial condition;
2. The objectionable nature of the defendant's wrongdoing, the impact of the defendant's conduct on the plaintiff, and the relationship of the parties;
3. The defendant's awareness of the amount of harm being caused and the defendant's motivation in causing the harm;
4. The duration of the defendant's misconduct and whether the defendant attempted to conceal the conduct;
5. The amount of money the plaintiff has spent in the attempt to recover the losses;
6. Whether the defendant profited from the activity, and if so, whether the punitive award should be in excess of the profit in order to deter similar future behavior;
7. The number and amount of previous punitive damage awards against the defendant based upon the same wrongful act, if any;

8. Whether, once the misconduct became known to the defendant, the defendant tried to remedy the situation or offered a prompt and fair settlement for the actual harm caused; and
9. Any other circumstances shown by the evidence that bears on determining the proper amount of the punitive award.

Remember, you have already awarded the plaintiff compensatory damages for the purpose of making the plaintiff whole. The purpose of an award for punitive damages is to punish a wrongdoer and to deter misconduct by the defendant or others.

Each damage element is separate from the others. Punitive damages arising from breach of contract are separate from actual damages and bad faith damages. You may not duplicate damages for any element by also including that same loss or harm in another element of damage.

II. VERDICT

Finally, ladies and gentlemen of the jury, we come to the point where we will discuss the form of your verdict and the process of your deliberations. You will be taking with you to the jury room a special verdict form which reflects your findings. The special verdict form reads as follows:

[Read Verdict Form]

The presiding juror will preside over your deliberations and be your spokesperson here in court. When you have completed your deliberations, your presiding juror will fill in and sign the special verdict form.

Your verdict must represent the considered judgment of each of you. In order to return a verdict, it is necessary that each of you agree to that verdict. That is, each of your verdicts must be unanimous.

It is your duty as jurors to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgments. Each of you must decide the case for yourself, but do so only after an

impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own views and change your opinion if convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

I am not sending back to you all of the exhibits. If you would like an exhibit or all the exhibits, please let the Court Security Officer know, and they will be supplied. You may not have seen all of these previously and they will be there for your review and consideration. You may take a break before you begin deliberating but do not begin to deliberate and do not discuss the case at any time unless all of the jurors are present together in the jury room. Some of you have taken notes. I remind you that these are for your own individual use only and are to be used by you only to refresh your recollection about the case. They are not to be shown to others or otherwise used as a basis for your discussion about the case.

If you should desire to communicate with me at any time, please write down your message or question and pass the note to the Court Security Officer who will bring it to my attention. I will then respond as promptly as possible after consulting with counsel for the parties either in writing or by having you returned to the courtroom so that I can address you orally. Please understand that I may only answer questions about the law and I cannot answer questions about the evidence. I caution you, however, with regard to any message or question you might send, that you should not tell me your numerical division at the time.