

## PROPOSED JURY INSTRUCTIONS - CIVIL

### Preliminary Instructions

Members of the jury, this is a civil lawsuit brought by Nicholas Townsley against Barbara Townsley. This is a personal injury case based on what we call an intentional tort, that is, the plaintiff claims the defendant intentionally injured him. The plaintiff in this case is Nicholas Townsley and he alleges that the defendant Barbara Townsley intentionally shot him with a handgun without justification. Barbara asserts that she fired her gun only in self defense. At the time of the acts at issue, the plaintiff and defendant were husband and wife, but that fact does not change the outcome. The law holds spouses to the same standards as strangers when personal injuries are involved.

It will be your duty to determine the facts and decide what happened. The only evidence you may consider is the evidence that will be presented in court. You may not consider anything you read in the paper or hear from your friends about this case. You should use your common sense in considering the evidence, and you may draw reasonable inferences from the evidence.

My function as Judge is to preside over the trial: to rule on points of law and to instruct you on the law. It is our responsibility to see that this case is decided in accord with the facts and the law.

To begin the case the lawyers will make opening statements in which they tell you what they expect the evidence to be. This should help you to understand the evidence as it is presented through the witnesses later and make you aware of conflicts and differences that may arise in the testimony. After opening statements, you will hear and see the evidence. It will come from witnesses and from exhibits. The Plaintiff will present his evidence first, and then the Defendant will present her side of the story. The witnesses are first examined by the lawyer who calls them and may then be cross-examined by the lawyer for the other side. There may be objections, and you must not consider any evidence that is stricken or that you are told to disregard. After all the evidence has been presented, the lawyers make their closing arguments. What the lawyers say is not evidence.

There will be occasional recesses during the trial. During these recesses you must not discuss the case with anyone, not even your friends. Nor may you look things up on the Internet. Please keep your cell phones turned off.

Please keep an open mind as the evidence is presented. Remember that your job is to reach your verdict only after you have heard and considered all the evidence, the instructions of law, and the final arguments of the lawyers.

## Concluding Instructions and Charge to the Jury

Members of the Jury, it is now my duty as judge to instruct you in the law that applies to this case. It is your duty as jurors to follow these instructions and to apply the rules of law to the facts as you find them from the evidence.

It is your duty to determine the facts and decide what happened. The only evidence you may consider is the evidence that was properly admitted at trial through the testimony of the witnesses and the exhibits. You may not consider any matter that was rejected or stricken by the Court. You may not consider anything you read in the paper or heard from your friends about this case, nor may you do your own investigation or look anything up on the Internet.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate as to the existence of a fact, you must accept the stipulation as evidence and regard that fact as proved.

Although you are to consider only the evidence in the case in reaching a verdict, you must bring to the consideration of the evidence your everyday common sense and judgment as reasonable men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify. You may draw reasonable inferences from the evidence which you feel are justified in the light of common experience, keeping in mind that such inferences should not be based on speculation or guess.

A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision should be the product of sincere judgment and sound discretion in accordance with these rules of law.

The plaintiff, Nicholas Townsley, has the burden to prove that he was injured, that the defendant intended to injure him, that the defendant did an act capable of causing injury, and that such act was a proximate cause of his injuries.

The defendant Barbara Townsley, has the burden of proving, as an affirmative defense, that she had a reasonable belief that the force she used was necessary and lawful under the circumstances.

In a civil case, whenever a party must prove something, they must prove it is true by a preponderance of the evidence. The term "preponderance of the evidence" means such evidence as, when weighed with that opposed to it, has more convincing force, and from which it appears that the greater probability of truth lies therein.

A proximate cause of injury is a cause which, in natural and continuous sequence, is a significant factor in producing the injury, and without which the injury would not have occurred.

The plaintiff, Nicholas Townsley, seeks to establish that the defendant Barbara Townsley intentionally injured him. To prove his case, he must prove the following propositions by a preponderance of the evidence:

1. The plaintiff Nicholas Townsley was injured.
2. The injury was a proximate result of the defendant Barbara Townsley's conduct.
3. The defendant intended to injure the plaintiff, although she need not have intended to cause the specific injury suffered.
4. The defendant had no legal right to use force or violence against the plaintiff.

If the evidence convinces you that the defendants intentionally injured the plaintiff, then you should return a verdict in favor of Nicholas Townsley.

The defendant Barbara Townsley claims that any force she used was justified. To prove her case, the defendant must establish by a preponderance of the evidence that the force she used was necessary for self-defense. Any person who reasonably believes she is under attack may use such force in self-defense as reasonably appears necessary under the circumstances, but may not use excessive force. The question before you is whether a reasonable person in Barbara Townsley's circumstances would have believed that self-defense was necessary.

In this case, the defendant Barbara Townsley used deadly force, which is permitted only if three additional circumstances are met: One, the defendant must have perceived that the attack was placing her in imminent threat of serious bodily injury or death; Two, the defendant must have had no reasonable means and opportunity to escape without resorting to deadly force, and Three, the defendant must have given her attacker warning by word or deed if a warning were feasible. If the evidence convinces you that Barbara Townsley's actions were justified as self-defense, you should return a verdict for the defendant.

If you find for the plaintiff, you determine an amount that will compensate him for the injuries or harms proximately caused by the acts of the defendant. The law recognizes three types of damages.

1. The amount of medical, hospital, and related expenses that he was charged for the treatment of his injuries. You are not allowed to speculate on whether he did or did not have medical insurance because the issue is irrelevant.
2. The amount of income he lost as a result of his injuries.
3. An amount that will reasonably compensate him for any pain, discomfort, fears, anxiety, and other mental or emotional distress caused by the act of the defendant. No definite standard is prescribed by law by which to fix reasonable compensation for pain and suffering, nor are the arguments of counsel evidence of the proper amount. You should use your own calm and reasonable judgment to fix the damage award in light of the evidence.

Your verdict must be unanimous.

MONROE COUNTY CIRCUIT COURT  
STATE OF INDIANA  
CIVIL DIVISION

|                       |   |                |
|-----------------------|---|----------------|
| Nicholas B. Townsley, | ) |                |
| Plaintiff             | ) | Civil No 19127 |
|                       | ) |                |
| vs.                   | ) |                |
|                       | ) |                |
| Barbara W. Townsley   | ) | <b>VERDICT</b> |
| Defendant             | ) |                |

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We the jurors of Monroe County find:

\_\_\_\_\_ for the defendants.

\_\_\_\_\_ for the plaintiff in the amount of:

- a. Medical damages: \_\_\_\_\_
- b. Lost income \_\_\_\_\_
- c. Pain and suffering \_\_\_\_\_

Signed: \_\_\_\_\_  
Jury foreperson