

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE**

NANCY ROE,)	
Plaintiff,)	
)	
v.)	CAUSE NO.: 4:18-CV-89-JEM
)	
PURDUE UNIVERSITY, <i>et al.</i> ,)	
Defendants.)	

**PRELIMINARY JURY INSTRUCTIONS OF THE COURT
NUMBERED 1 THROUGH 23**

The following preliminary jury instructions numbered 1 through 23, inclusive, will be read by the Court to the Jury prior to the presentation of evidence on September 19, 2022.

Date: September 19, 2022

s/ John E. Martin
MAGISTRATE JUDGE JOHN E. MARTIN
UNITED STATES DISTRICT COURT

Court's Preliminary Jury Instruction 1

Members of the Jury:

You have been selected as jurors and have taken an oath to well and truly try this case.

Keep an open mind. Do not make a decision about the outcome of this case until you have heard all the evidence, the arguments of counsel, and my final instructions about the law you will apply to the evidence you have heard.

Your decision must be based only on the evidence presented during this trial and my instructions on the law. Therefore, from now until the trial ends, you must not:

Conduct research on your own or as a group,

Use dictionaries, the internet, or any other resource to gather any information about the issues in this case,

Investigate the case, conduct any experiments, or attempt to gain any specialized knowledge about the case, or

Receive assistance in deciding the case from any outside source.

You also must not:

Use laptops or cell phones in the courtroom or in the jury room while discussing the case,

Consume any alcohol or drugs that could affect your ability to hear and understand the evidence,

Read, watch, or listen to anything about this trial from any source whatsoever, including newspapers, radio, television, or the internet,

Listen to discussions among, or receive information from, other people about this trial, or

Visit or view the scene of any event involved in this case. If you happen to pass by the scene, do not stop or investigate.

Finally, you must not:

Talk to any of the parties, their lawyers, any of the witnesses, or members of the media. If anyone tries to talk to you about this case, you must tell the Court personnel or me immediately.

You may discuss the evidence with your fellow jurors during the trial, but only in the jury room, and only when all of you are present. Even though you are permitted to have these discussions, you must not make a decision about the outcome of this case until your final deliberations begin. Until you reach a verdict, do not communicate about this case or your deliberations with anyone else.

You must not communicate with anyone or post information about the case, or what you are doing in the case, by any means, including telephone, text messages, email, internet chat rooms, blogs, or social websites, such as Facebook or Twitter.

During the trial, you may tell people who need to know that you are a juror, and you may give them information about when you will be required to be in court. But you must not talk with them or others about anything else related to the case. Only you have been found to be fair, and only you have promised to be fair - no one else has been so qualified. After your service on this jury is concluded, you are free to talk with anyone about the case or do whatever research you wish.

Our law does not permit you to visit a place discussed in the testimony because you cannot be sure that the place is in the same condition as it was on the day in question. Also, even if it were in the same condition, once you go to a place to evaluate evidence in light of what you see there, you become a witness, not a juror. As a witness, you may now have an erroneous view of the scene that may not be subject to correction by either party. That is not fair.

These rules are designed to help guarantee a fair trial, and our law accordingly provides for serious consequences if the rules are not followed.

Court's Preliminary Jury Instruction 2

If you realize that you have personal knowledge about this case, you must inform the Court Security Officer or me immediately.

Court's Preliminary Jury Instruction 3

Judges and jurors perform different tasks. I will instruct you on the law, both now and after all the evidence has been presented. You will decide the facts in this case. Then you will decide the outcome of this case by applying my instructions to the facts.

Court's Preliminary Jury Instruction 4

You are to consider all of my preliminary and final instructions together. Do not single out any individual sentence, point, or instruction and ignore the others.

Court's Preliminary Jury Instruction 5

In this case, the plaintiff, Megan Hayes has sued Purdue University and two current employees, Alysa Rollock and Katie Sermersheim. When you hear a reference to the “Individual Defendants” we are referring to Ms. Rollock and Ms. Sermersheim.

While enrolled at Purdue University, Ms. Hayes alleged that a male fellow student sexually assaulted her. She alleged that this occurred while she was incapacitated.

Purdue, through its Office of Institutional Equity, investigated her complaint. Purdue alleges that it concluded that the evidence did not support the allegations, and, further, that Ms. Hayes made multiple knowingly false statements to Purdue in the course of reporting the incident.

Ms. Hayes alleges that Purdue's decision to suspend her violated her rights under the United States Constitution and federal law.

Purdue asserts that it suspended her because the evidence did not support the allegation and that Ms. Hayes made multiple knowingly false statements to Purdue in the course of reporting the alleged assault.

Purdue denies Ms. Hayes' claims. Purdue and the Individual Defendants have no burden to disprove Ms. Hayes' claims. Instead, Ms. Hayes must prove her claims by a preponderance of the evidence.

Purdue and the Individual Defendants have asserted certain defenses. Purdue and the Individual Defendants must prove these defenses by a preponderance of the evidence.

Purdue and the Individual Defendants also dispute Ms. Hayes' claimed injuries and damages.

Court's Preliminary Jury Instruction 6

When I say a particular party must prove something by a “preponderance of the evidence” or the “greater weight of the evidence,” or when I use the expression “if you find,” or “if you decide,” this is what I mean: When you have considered all the evidence in the case, you must be persuaded that it is more probably true than not true.

A greater number of witnesses testifying to a fact on one side or a greater quantity of evidence introduced on one side does not necessarily amount to the greater weight of the evidence.

Court's Preliminary Jury Instruction 7

The parties in this case may prove a fact by one of two types of evidence-- direct evidence or circumstantial evidence.

Direct evidence is direct proof that does not require an inference, such as the testimony of someone who claims to have personal knowledge of a fact. Circumstantial evidence is proof of a fact, or a series of facts, that tends to show that some other fact is true.

For example, direct evidence that it is raining is testimony from a witness who says, "I was outside a minute ago and I saw it raining." Circumstantial evidence that it is raining is observing someone entering a room carrying a wet umbrella.

The law makes no distinction between the weight to be given to either direct or circumstantial evidence. You should decide how much weight to give to any evidence. You should consider all the evidence in this case, and you may consider both direct evidence and circumstantial evidence as proof.

Court's Preliminary Jury Instruction 8

You alone are the judges of the evidence. You must decide whether each witness is credible. A credible witness is a witness whose testimony you believe. You must decide whether the testimony of each witness is truthful and accurate, in part, in whole, or not at all. You must also decide what weight, if any, you give to the testimony of each witness.

In evaluating the testimony of any witness, you may consider, among other things:

- the ability and opportunity the witness had to see, hear, or know the things that the witness testified about;
- the witness's memory;
- any interest, bias, or prejudice the witness may have;
- any relationship the witness may have with other witnesses or interested parties;
- the witness's intelligence;
- the manner and conduct of the witness while testifying;
- and the reasonableness of the witness's testimony in light of all the evidence in the case.

Assume that each witness has testified truthfully. If you find conflicts in the evidence, reconcile those conflicts, if you can, based on the assumption that each witness has testified truthfully.

Do not disregard the testimony of any witness without a reason and without careful consideration. If you find conflicting testimony that you cannot reconcile, decide what testimony you believe and what testimony you disbelieve.

In deciding what or whom you believe, you should use your own knowledge, experience, and common sense gained from day-to-day living.

Court's Preliminary Jury Instruction 9

During the trial, the parties may offer exhibits as evidence. I will decide whether to admit the exhibit as evidence. When I admit an exhibit as evidence, you should carefully examine it without comment while you are in the courtroom.

Rules of law strictly control the admissibility of evidence. The attorneys may ask certain questions or offer certain exhibits that I may rule are not admissible into evidence. Do not consider or speculate about evidence that I do not admit, or order stricken from the record. Treat such evidence as though you had never seen or heard it.

Nothing I say or do is intended to suggest what you should believe about the facts in this case, or what your verdict should be. Each of you, as jurors, must determine the facts and the verdict.

Court's Preliminary Jury Instruction 10

Judge the evidence from your memory of the testimony of the witnesses and any exhibits admitted into evidence. I will not provide a written transcript of any testimony. Therefore, listen carefully as the evidence is presented.

You may take notes during the trial. Paper will be provided. Do not become so involved in note-taking that you fail to listen carefully to the evidence and observe the witnesses as they testify.

Your notes are not evidence in this case. Any notes you take during this trial are only aids to your memory. If you have not taken notes, you should rely on your independent recollection of the evidence and not be unduly influenced by the notes of other jurors. Do not give your notes or your fellow jurors' notes any greater weight than your memory or impression of the actual evidence.

You may only disclose your notes to your fellow jurors while you are all together in the jury room. Do not disclose your notes to anyone else. Do not take your notes outside of the courtroom or jury room. When your notes are not in your possession, no one will be allowed to read them.

Court's Preliminary Jury Instruction 11

You may have questions that you want to ask a witness. Do not address any questions directly to a witness, the lawyers, or your fellow jurors, because there are rules about what questions may be asked and the answers that witnesses are allowed to give. Instead, if you have questions, raise your hand after the attorneys have asked all of their questions, and before the witness has left the witness stand. Write down your questions. I will collect them and review them with the attorneys. I will then decide whether your questions are permitted by law. If a question is permitted, I will ask the witness each question. If it is not permitted, do not speculate why a question was not asked or what the answer may have been.

Court's Preliminary Jury Instruction 12

A party may present testimony by way of a written or video deposition.

A deposition is the sworn testimony of a witness taken before trial. The witness is placed under oath and swears to tell the truth, and the lawyer for each party may ask questions. A court reporter is present and records the questions and answers.

You should give this testimony the same consideration you would give it if the witness appeared and testified here in court.

Court's Preliminary Jury Instruction 13

Do not allow sympathy, prejudice, fear, or public opinion to influence you. You should not be influenced by any person's race, color, religion, national ancestry, or sex.

Court's Preliminary Jury Instruction 14

The evidence consists of the testimony of the witnesses, the exhibits admitted in evidence, and any facts that I may instruct you to find or the parties may agree or stipulate to.

A stipulation is an agreement between both sides that certain facts are true.

Court's Preliminary Jury Instruction 15

You should use common sense in weighing the evidence and consider the evidence in light of your own observations in life.

In our lives, we often look at one fact and conclude from it that another fact exists. In law we call this "inference." A jury is allowed to make reasonable inferences. Any inference you make must be reasonable and must be based on the evidence in the case.

Court's Preliminary Jury Instruction 16

The following things are not evidence, and you must not consider them as evidence in deciding the facts of this case: the attorneys' statements, arguments, questions, and objections of the attorneys; any testimony that I instruct you to disregard; and anything you may see or hear when the court is not in session even if what you see or hear is done or said by one of the parties or by one of the witnesses.

Furthermore, a particular item of evidence is sometimes received for a limited purpose only. That is, it can be used by you only for one particular purpose, and not for any other purpose. I will tell you when that occurs and instruct you on the purposes for which the item can and cannot be used.

Court's Preliminary Jury Instruction 17

From time to time during the trial I may be called upon to make rulings of law on objections or motions made by the lawyers. You should not infer or conclude from any ruling or other comment I may make that I have any opinions about how you should decide this case. And if I should sustain an objection to a question that goes unanswered by a witness, you should not guess or speculate what the answer might have been, and you should not draw any inferences or conclusions from the question itself.

Court's Preliminary Jury Instruction 18

At times during the trial it may be necessary for me to talk with the lawyers here at the bench out of your hearing, or by calling a recess. We meet because often during a trial something comes up that doesn't involve the jury.

We will, of course, do what we can to keep the number and length of these conferences to a minimum, but you should remember the importance of the matter you are here to determine and should be patient even though the case may seem to go slowly.

Court's Preliminary Jury Instruction 19

During the trial, I may sometimes ask a witness questions. Do not assume because I ask questions I hold any opinion on the matters I ask about, or on how the case should be decided.

Court's Preliminary Jury Instruction 20

In this case, one of the defendants, Purdue University, is a state educational institution. All parties are equal before the law. A state educational institution entity is entitled to the same fair consideration that you would give any individual person.

Court's Preliminary Jury Instruction 21

You must give separate consideration to each claim and each party in this case.

Court's Preliminary Jury Instruction 22

The law does not require any party to call as a witness every person who might have knowledge of the facts related to this trial. Similarly, the law does not require any party to present as exhibits all papers and things mentioned during this trial.

Court's Preliminary Jury Instruction 23

The trial of this case will proceed as follows:

First, the attorneys will have an opportunity to make opening statements. These statements are not evidence. They are only previews of what the attorneys anticipate the evidence will be.

Following the opening statements, the attorneys begin presenting the evidence. They may call witnesses to testify under oath. The attorneys may also offer documents and other exhibits as evidence.

When the evidence is completed, the attorneys will make final, or closing, arguments. These final arguments are not evidence but are given to help you evaluate the evidence. The attorneys are also permitted to argue, to characterize the evidence, and to attempt to persuade you to a particular verdict. You may accept or reject those arguments as you see fit.