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IN THE FIRST CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE AT NASHVILLE

Jury Instructions

TATUM M. CAMPBELL Plaintiff, v. T.C. RESTAURANT GROUP, LLC d/b/a LUKE'S 32 BRIDGE FOOD & DRINK and CHRIS BULLARD Defendants,	)	21C-382

JUDGE C. DAVID BRILEY

/s/ Latonya Drumwright
Deputy Clerk

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

IN THE FIRST CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

TATUM M. CAMPBELL	)	
	)	
Plaintiff	)	
	)	**21C-382**
v.	)	**JURY DEMAND**
	)	
T.C. RESTAURANT GROUP, LLC d/b/a LUKE'S 32 BRIDGE FOOD + DRINK and CHRIS BULLARD	)	
	)	
Defendant	)	

JURY INSTRUCTIONS: AFTER VOIR DIE AND BEFORE TRIAL

TPI—Civil 1.02

Before we move to the next phase of this trial, I will give you some instructions to help you understand how the case will proceed, what your duties will be, and how you should conduct yourselves during the rest of the trial.

It is your job as the jury to decide the facts, apply the law that I will give you to those facts, and return a decision, which is called a verdict.

TRIAL PROCESS

In the next part of the case, the lawyers will make their opening statements. These statements will be brief outlines of the case and what the lawyers expect the evidence will be. The lawyer's opening statements are not evidence. The Plaintiff's lawyer will go first and the Defendant's lawyer will follow.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

After opening statements, you will hear the evidence. The evidence generally consists of testimony of witnesses and exhibits that will be numbered. Testimony of witnesses are statements made in court, under oath, in answer to questions asked by the lawyers. Exhibits are items such as photographs, documents, or other writings.

The Plaintiff will go first and present her evidence on her complaint. The Defendants will then present their evidence.

The witnesses will testify in response to questions from the attorneys. Witnesses are first asked questions or examined by the party who calls that person to testify; then the other parties are permitted to cross-examine the witness. Although evidence is presented by asking questions, the questions themselves are not evidence. You should consider a question only as it givens meaning to a witnesses answer. The witnesses' answers are evidence.

[Sometimes a witness may be presented by deposition. A deposition is testimony taken under oath before the trial. The questions asked by the lawyers and the answers given by the witnesses are recorded word for word and can be presented to the jury at trial. You should consider deposition testimony exactly the same as if that witness appeared in court.]

All trials are governed by Rules of Evidence and Rules of Procedure. Rule of Evidence determine what type of information can be considered by the jury. Rules of Procedure determine how the evidence is presented in court. During the trial, objections may be made. These are matters that I decide. I may rule on the objection immediately or I may ask the lawyers to come to the bench for a conference to discuss the objection. During such a conference, we will whisper so that you are

not able to hear our discussion. If I think the matter will take more than a few minutes to discuss, I may ask the jury to leave the courtroom and wait in the jury room. Typically, these discussions concern some legal issue that I will not need to share with you, but if there is anything you need to know, I will tell you.

The law requires that you decide the case based only on competent or proper evidence. If an objection is made, I may sustain the objection without permitting the witness to answer or, where an answer has been given, I may instruct you to disregard that answer. I may also overrule the objection and permit the witness to answer the question. In deciding the case, you may not draw any inference from an unanswered question and you may not consider any testimony that you are instructed to disregard. My rulings on objections will be based only on the law. You must not infer from any ruling I may make, that I hold any view or opinion for or against any party in this lawsuit.

When all the evidence has been presented to you, the attorneys and self-represented parties will make their closing arguments. They will point out to you what they contend the evidence has shown, what inferences you should draw from the evidence, and what conclusions you should reach as to your verdict. Plaintiff's lawyer will go first, followed by Defendant's lawyer and the self-represented Defendant. Plaintiff's lawyer may then respond to Defendant's arguments.

Unless you are otherwise instructed, statements and closing arguments made by the attorneys are not evidence. Their statements and arguments are made only to help you understand the evidence and apply the law to the evidence that has been presented in the case. You should ignore any statement made that is not supported by the evidence.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

After closing arguments, I will instruct you on the rules of law that apply. It is your job as jurors to determine what the facts are from all the evidence, and to apply the rules of law to the facts that you have found. You are the sole and exclusive judges of the facts. On the other hand, you are required to accept the rules of law that I give to you whether or not you agree with them.

CONSIDERATION OF THE EVIDENCE

You are the sole judges of the facts and the credibility or believability of the witnesses. The law requires you to consider all of the evidence that is admitted, but you are not required to accept all of that evidence as true or accurate. You must decide which witnesses' testimony or portions of testimony you accept or believe, how important you think that testimony is, the weight you attach to it, and what inferences to draw from it. You are not required to accept or reject everything a witness says. You are free to believe all, some, or none of any witnesses' testimony.

In deciding what testimony to believe, you should rely on your own common sense and everyday experiences in evaluating the testimony. There is no fixed set of rules to use in deciding what testimony to believe, but it may help you to think about the following questions:

Was the witness able to see or hear or be aware of the things about which the witness testified?

How well did the witness recall what happened?

Did the witness describe the events clearly?

How long was the witness present and watching or listening?

Was the witness distracted in any way?

Did the witness have a good memory?

How did the witness look and act while testifying?

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

Was the witness making an honest effort to tell the truth, or did the witness evade questions?

Does the witness have any interest in the outcome of the case?

Does the witness have any motive, bias, or prejudice that would influence his or her testimony?

How reasonable was the witnesses' testimony when you consider all of the evidence in the case?

Was the testimony contradicted by what the witness said or did at another time, by the testimony of other witnesses, or by other evidence?

JUROR CONDUCT AND INSTRUCTIONS

There are several rules concerning your conduct as jurors during the trial and during recesses and lunch breaks that you must follow:

FIRST, do not conduct your own investigation into this case, although you may be tempted to do so. This means, for example, you must not visit the location where this incident occurred, read any textbooks, articles, or research any other source of information concerning the issues in this case, including any information on the Internet. If you were to do that, you would be getting information that is not evidence in this case. You must decide this case only on the evidence and law presented to you during the trial. Any juror who receives any information about this case other than evidence presented at trial must notify the Court immediately.

SECOND, do not discuss the case or any part of it among yourselves or with anyone else during the trial. Do not discuss the case during breaks, lunch or when you go home at night. You must keep an open mind until you have heard all of the evidence, the lawyers' closing arguments, and my final instructions concerning the law. The first time that you should discuss any part of this case is when you begin your deliberations. Any discussions about the case before you begin deliberations

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

IN THE FIRST CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

TATUM M. CAMPBELL **Plaintiff** **v.** **T.C. RESTAURANT GROUP, LLC d/b/a LUKE'S 32 BRIDGE FOOD + DRINK and CHRIS BULLARD** **Defendant**	)	**21C-382** **JURY DEMAND**

JURY INSTRUCTION TO BE GIVEN AFTER OPENING STATEMENTS AND BEFORE THE PRESENTATION OF EVIDENCE

TPI - CIVIL 1.03

You have now heard the opening statements from the lawyers. We now begin with the presentation of evidence in this case.

The evidence generally consists of the numbered exhibits and the testimony of witnesses. The plaintiff will present evidence first. The defendant then will be given the opportunity to present evidence. Normally, the plaintiff will present all of the plaintiff's evidence before the other party[ies] presents any evidence. Exceptions are sometimes made, however, usually to accommodate a witness. The witnesses will testify in response to questions from the attorneys.

Witnesses are first asked questions by the party who calls the witness to testify and then others are permitted to cross-examine the witnesses. Although evidence is presented by asking questions, the questions themselves are not evidence. An insinuation contained in a question is not evidence. You should consider a question only as it gives meaning to a witness's answer.

There are two kinds of evidence; direct and circumstantial. Direct evidence is direct proof of a fact, such as testimony of a witness about what the witness personally observed.

Circumstantial evidence is indirect evidence that gives you clues about what happened. Circumstantial evidence is proof of a fact, or a group of facts, that causes you to conclude that another fact exists. It is for you to decide whether a fact has been proved by circumstantial evidence. If you base your decision upon circumstantial evidence, you must be convinced that the conclusion you reach is more probable than any other explanation.

For example, if a witness testified that the witness saw it raining outside, that would be direct evidence that it was raining. If a witness testified that the witness saw someone enter a room wearing a raincoat covered with drops of water and carrying a wet umbrella, that would be circumstantial evidence from which you could conclude that it was raining.

You are to consider both direct and circumstantial evidence. The law permits you to give equal weight to both, but it is for you to decide how much weight to give to any evidence.

In making your decision, you must consider all the evidence in light of reason, experience and common sense.

Although you must consider all of the evidence, you are not required to accept all of the evidence as true or accurate.

You should not decide an issue by the simple process of counting the number of witnesses who have testified on each side. You must consider all the evidence in the case. You may decide that the testimony of fewer witnesses on one side is more convincing than the testimony of more witnesses on the other side.

You are the sole and exclusive judges of the credibility or believability of the witnesses who have testified in this case. You must decide which witnesses you believe and how important you think their testimony is. You are not required to accept or reject everything a witness says. You are free to believe all, none, or part of any person's testimony.

In deciding which testimony you believe, you should rely on your own common sense and everyday experience. There is no fixed set of rules to use in deciding whether you believe a witness.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

During the trial, objections may be made to evidence or trial procedures. I may sustain objections to questions asked without permitting a witness to answer, or I may instruct you to disregard an answer that has been given. In deciding this case, you may not draw any inference from an unanswered question, and you may not consider testimony that you are instructed to disregard.

In this action, the plaintiff has the burden of establishing by a preponderance of the evidence all of the facts necessary to prove the following issues:

The defendant has the burden of establishing by a preponderance of the evidence all of the facts necessary to prove the following issues:

The term "preponderance of the evidence" means that amount of evidence that causes you to conclude that an allegation is probably true. To prove an allegation by a preponderance of the evidence, a party must convince you that the allegation is more likely true than not true.

If the evidence on a particular issue is equally balanced, that issue has not been proven by a preponderance of the evidence and the party having the burden of proving that issue has failed.

You must consider all the evidence on each issue.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

I will give you further instructions on the law after you have heard and seen **all of** the evidence.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

TPI – CIVIL 1.04 - USE OF JUROR NOTES

You are permitted to take notes during the trial. You may take notes only of verbal testimony from witnesses, including witnesses presented by deposition or videotape. You may not take notes during the opening statements or closing arguments or take notes of objections made to the evidence. You may not take notes during breaks or recesses. Notes may be made only in open court while witnesses are testifying.

Your notes should not contain personal reactions or comments, but rather should be limited to a brief, factual summary of testimony you think is important. Please do not let your note-taking distract you and cause you to miss what the witness said or how the witness said it. Remember that some testimony may not appear to be important to you at the time. That same testimony, however, may become important later in the trial.

Your notes are not evidence. You should not view your notes as authoritative records or consider them as a transcript of the testimony. Your notes may be incomplete or contain errors and are not an exact account of what was said by a witness.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

TPI - CIVIL 1.05 - CORPORATION NOT TO BE PREJUDICED

The fact that a corporation is a party must not influence you in your deliberations or in your verdict. Corporations and persons are equal in the eyes of the law. Both are entitled to the same fair and impartial treatment and to justice by the same legal standards.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 1.06
INSURANCE AND INSURANCE COMPANIES

Evidence of insurance has been admitted for the limited purpose of establishing lost wages.

You may consider evidence of insurance only for this limited purpose.

There are sound reasons for this rule. A party is no more or less likely to be negligent because a party does or does not have insurance. Injuries and damages, if any, are not increased or decreased because a party does or does not have insurance.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 2.01
EVIDENCE

You are to decide this case only from the evidence which was presented at this trial. The evidence consists of:

1. **The sworn testimony of the witnesses who have testified, both in person and by deposition;**
2. **The exhibits that were received and marked as evidence; and**
3. **Any facts to which all the lawyers have agreed or stipulated.**
4. **Any other matters that I have instructed you to consider as evidence.**

T.P.I. - CIVIL 2.02
DIRECT AND CIRCUMSTANTIAL EVIDENCE

There are two kinds of evidence; direct and circumstantial. Direct evidence is direct proof of a fact, such as testimony of a witness about what the witness personally observed.

Circumstantial evidence is indirect evidence that gives you clues about what happened. Circumstantial evidence is proof of a fact, or a group of facts, that causes you to conclude that another fact exists. It is for you to decide whether a fact has been proved by circumstantial evidence. If you base your decision upon circumstantial evidence, you must be convinced that the conclusion you reach is more probable than any other explanation.

For example, if a witness testified that the witness saw it raining outside, that would be direct evidence that it was raining. If a witness testified that the witness saw someone enter a room wearing a raincoat covered with drops of water and carrying a wet umbrella, that would be circumstantial evidence from which you could conclude that it was raining.

You are to consider both direct and circumstantial evidence. The law permits you to give equal weight to both, but it is for you to decide how much weight to give to any evidence.

In making your decision, you must consider all the evidence in light of reason, experience and common sense.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 2.03
WEIGHING CONFLICTING TESTIMONY

Although you must consider all of the evidence, you are not required to accept all of the evidence as true or accurate.

You should not decide an issue by the simple process of counting the number of witnesses who have testified on each side. You must consider all the evidence in the case. You may decide that the testimony of fewer witnesses on one side is more convincing than the testimony of more witnesses on the other side.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 2.06
DEPOSITION TESTIMONY

Certain testimony has been presented by deposition. A deposition is testimony taken under oath before the trial and preserved in writing or on videotape. You are to consider that testimony as if it had been given in court.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 2.07
INTERROGATORIES

During the course of the trial you may have heard reference made to the word "interrogatory". An interrogatory is a written question that must be answered under oath in writing. You are to consider interrogatories and their answers as if the questions had been asked and answered in court.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 2.20
CREDIBILITY OF WITNESS

You are the sole and exclusive judges of the credibility or believability of the witnesses who have testified in this case. You must decide which witnesses you believe and how important you think their testimony is. You are not required to accept or reject everything a witness says. You are free to believe all, none, or part of any person's testimony.

In deciding which testimony you believe, you should rely on your own common sense and everyday experience. There is no fixed set of rules to use in deciding whether you believe a witness, but it may help you to think about the following questions:

1. Was the witness able to see, hear, or be aware of the things about which the witness testified?
2. How well was the witness able to recall and describe those things?
3. How long was the witness watching or listening?
4. Was the witness distracted in any way?
5. Did the witness have a good memory?
6. How did the witness look and act while testifying?
7. Was the witness making an honest effort to tell the truth, or did the witness evade questions?
8. Did the witness have any interest in the outcome of the case?
9. Did the witness have any motive, bias or prejudice that would influence the witness' testimony?
10. How reasonable was the witness' testimony when you consider all

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

of the evidence in the case?

11. **Was the witness' testimony contradicted by what that witness has said or done at another time, by the testimony of other witnesses, or by other evidence?**
12. **Has there been evidence regarding the witness' intelligence, respectability, or reputation for truthfulness?**
13. **Has the witness' testimony been influenced by any promises, threats, or suggestions?**
14. **Did the witness admit that any part of the witness' testimony was not true?**

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 2.21
DISCREPANCIES IN TESTIMONY

There may be discrepancies or differences within a witness' testimony or between the testimony of different witnesses. This does not necessarily mean that a witness should be disbelieved. Sometimes when two people observe an event they will see or hear it differently. Sometimes a witness may have an innocent lapse of memory. Witnesses may testify honestly but simply may be wrong about what they thought they saw or remembered. You should consider whether a discrepancy relates to an important fact or only to an unimportant detail.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 2.22
WITNESS WILLFULLY FALSE

You may conclude that a witness deliberately lied about a fact that is important to your decision in the case. If so, you may reject everything that witness said. On the other hand, if you decide that the witness lied about some things but told the truth about others, you may accept the part you decide is true and you may reject the rest.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 2.25
PHYSICAL LAWS, FACTS

You should consider all of the surrounding circumstances at the time of the event or occurrence when weighing the testimony of a witness. A statement of fact should be disregarded if you find the statement is inherently impossible or contrary to universally recognized physical laws or well established physical facts.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 2.40
BURDEN OF PROOF - PREPONDERANCE OF EVIDENCE

In this action, the plaintiff has the burden of establishing by a preponderance of the evidence all of the facts necessary to prove the following issues:

(1) That the defendant was at fault; and (2) the nature and extent of the injuries claimed to have been suffered, the elements of the Plaintiff's damage and the amount thereof.

The defendant has the burden of establishing by a preponderance of the evidence all of the facts necessary to prove the following issues:

That the Plaintiff was at fault.

The term "preponderance of the evidence" means that amount of evidence that causes you to conclude that an allegation is probably true. To prove an allegation by a preponderance of the evidence, a party must convince you that the allegation is more likely true than not true.

If the evidence on a particular issue is equally balanced, that issue has not been proven by a preponderance of the evidence and the party having the burden of proving that issue has failed.

You must consider all the evidence on each issue.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 3.50
COMPARATIVE FAULT
THEORY AND EFFECT

In deciding this case you must determine the fault, if any, of each of the parties. If you find more than one of the parties at fault, you will then compare the fault of the parties. To do this, you will need to know the definition of fault.

A party is at fault if you find that the party was negligent and that the negligence was a cause in fact and legal cause of the injury or damage for which a claim is made.

Fault has two parts: negligence and causation. Negligence is the failure to use reasonable care. It is either doing something that a reasonably careful person would not do, or the failure to do something that a reasonably careful person would do, under circumstances similar to those shown by the evidence. A person who assumes to act, even though gratuitously, has a duty to perform that act carefully. The mere happening of an injury or accident does not, in and of itself, prove negligence. A person may assume that every other person will use reasonable care unless the circumstances indicate the contrary to a reasonably careful person.

The second part of fault is causation.

Causation has two components: (a) causation in fact and (b) legal cause.

A cause in fact of the plaintiff's injury is a cause which directly contributed to the plaintiff's injury and without which the plaintiff's injury would not have occurred. To be a cause in fact, it is not necessary that a

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

negligent act or omission be the sole cause of plaintiff's injury, only that it be a cause.

Once you have determined that a party's negligence was a cause in fact of plaintiff's injury, the next question you must decide is whether the party's negligence was also a legal cause of the plaintiff's injury.

Two requirements must be met to determine whether a party's negligent act(s) or omission(s) was (were) a legal cause of the injury or damage.

1. **The conduct must have been a substantial factor in bringing about the harm being complained of; and**
2. **The harm giving rise to the action could have been reasonably foreseen or anticipated by a person of ordinary intelligence and prudence.**

To be a legal cause of an injury there is no requirement that the cause be the only cause, the last act, or the one nearest to the injury, so long as it is a substantial factor in producing the injury or damage.

The foreseeability requirement does not require the person guilty of negligence to foresee the exact manner in which the injury takes place or the exact person who would be injured. It is enough that the person guilty of negligence could foresee, or through the use of reasonable care, should have foreseen the general manner in which the injury or damage occurred.

A single injury can be caused by the negligent acts or omissions of one or more persons.

If you find that a party was negligent and that the negligence was a cause in fact and also a legal cause of the injury or damages for which a claim

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

was made, you have found that party to be at fault. The plaintiff has the burden to prove the defendant's fault. If the plaintiff fails to do so, you should find no fault on the part of the defendant. Likewise, the defendant has the burden to prove the plaintiff's fault. If the defendant fails to do so, you should find no fault on the part of the plaintiff. If you find more than one person to be at fault, you must then determine the percentage of fault chargeable to each of them.

You must also determine the total amount of damages sustained by any party claiming damages. You must do so without reducing those damages by any percentage of fault you may have charged to that party. I will instruct you on the law of damages in a few minutes.

It is my responsibility under the law to reduce the amount of damages you award to any party by the percentage of fault, if any, that you assign to that party.

A party claiming damages will be entitled to damages if that party's fault is less than 50% of the total fault in the case. A party claiming damages who is 50% or more at fault, however, is not entitled to recover any damages whatsoever.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 3.51
COMPARATIVE FAULT BASIS OF COMPARISON

You have been instructed that if you find more than one party at fault, you must apportion the fault of each party.

In making the apportionment of percentage of fault, you should keep in mind that the percentage of fault chargeable to a party is not to be measured solely by the number of particulars in which a party is found to have been at fault.

Nor does the fact that both parties are claiming the same act of negligence against each other necessarily mean that both must be equally at fault.

You should weigh the respective contributions of the parties, considering the conduct of each as a whole, determine whether one made a larger contribution than the other(s), and if so, to what extent it exceeds that of the other(s).

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 3.52
ADDITIONAL FACTORS FOR COMPARING FAULT

The percentage of fault assigned to any person depends upon all of the circumstances of the case. The conduct of each person may make that person more or less at fault, depending upon all of the circumstances. In order to assist you in making this decision, you may consider the following factor(s) and you may also consider any other factors that you find to be important under the facts and circumstances. But the determination of fault on the part of any person and the determination of the relative percentages of fault, if any, are matters for you alone to decide.

1. **Whose conduct more directly caused the injury to the plaintiff;**
2. **How reasonable was the person's conduct in confronting a risk, for example, did the person know of the risk or should the person have known of it;**
3. **Did the person fail to reasonably use an existing opportunity to avoid an injury to another;**
4. **Was there a sudden emergency requiring a hasty decision;**
5. **What was the significance of what the person was attempting to accomplish by the conduct.**

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 3.57
PRINCIPAL AND AGENT SUED
DISPUTED AGENCY

The plaintiff claims that the defendant T. C. Restaurant Group. LLC was the principal and the defendant Chris Bullard was an agent of the principal.

If you determine that the defendant Chris Bullard was the agent of the defendant T. C. Restaurant Group, LLC and was acting within the scope of the agent's authority at the time of the accident, and if you find the defendant Chris Bullard is at fault, then the plaintiff can recover damages against both defendants as if one.

However, if you determine that defendant Chris Bullard is at fault but was not then the agent of defendant T. C. Restaurant Group, LLC or was not acting within the scope of the agent's authority at the time of the incident, then the plaintiff cannot recover damages against the principal.

If you find that defendant Chris Bullard is not at fault, then the plaintiff cannot recover damages against either defendant.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 3.58

EXPLANATION OF VERDICT

The percentage figure for each party may range from zero (0) to one hundred (100) percent. When the percentages of fault of all parties [being compared] are added together, the total must equal [0% or] 100%. The total percentage cannot be more or less than [0% or] 100%.

The parties to whom you may assign fault are:

The Plaintiff Tatum M. Campbell

The Defendant Chris Bullard

Your next obligation is to determine the full amount of damages, if any, sustained by the following parties without considering the question of fault:

The Plaintiff – Tatum M. Campbell

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 4.11
INTOXICATION AS NEGLIGENCE

An intoxicated person is held to the same standard of reasonable care as a sober person. Intoxication is not an excuse for the failure to act as a reasonably careful person.

In determining whether or not a person was negligent, you should consider whether or not that person was intoxicated at the time of the occurrence together with all other evidence.

A person who has become voluntarily intoxicated is required to use the same care as that of a sober person.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 9.05

PLAINTIFF'S DUTY OF CARE

The plaintiff has a duty to use reasonable care for plaintiff's own safety and to make responsible use of plaintiff's senses.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 12.01
PRINCIPAL AND AGENT - DEFINITION

A principal can be held responsible for the acts or omissions of the principal's agent.

A person who is authorized to act for another person or in place of another person is an agent of that person. A person may be an agent whether or not payment is received for the authorized act.

The person who authorizes the agent to act is called a principal. For purposes of this case, the term "principal" includes an employer.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 12.02
SCOPE OF AUTHORITY

In order to be considered the act of the principal, the act of the agent must be within the scope of the agent's authority.

It is not necessary that a particular act or failure to act be expressly authorized by the principal to bring it within the scope of the agent's authority. Conduct is within the scope of the agent's authority if it occurs while the agent is engaged in the duties that the agent was authorized to perform and if the conduct relates to those duties. Conduct for the benefit of the principal that is incidental to, customarily connected with, or reasonably necessary to perform an authorized act is within the scope of the agent's authority.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 12.03
APPARENT AUTHORITY

The agent's scope of authority is not limited to the actual authorization given by the principal to the agent. It also includes authority that apparently has been given to the agent.

Apparent authority is:

(1) Authority that the principal either knowingly allows the agent to have or holds out the agent as having; or

(2) Authority that a reasonably careful or prudent person, under all of the circumstances, would naturally expect the agent to have.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 12.10
AGENT OR INDEPENDENT CONTRACTOR - DISTINCTION

One of the issues which you must decide is whether, at the time of the incident, the defendant Chris Bullard was the agent of the defendant T.C. Restaurant Group, LLC or whether Chris Bullard was an independent contractor.

While both an agent and independent contractor work for another person, there is an important distinction between them.

An "agent" of another person, called the principal, is authorized to act for or in place of the principal. A principal has the right to control the agent's actions. A principal ordinarily is legally responsible for the acts or omissions of the principal's agent.

An independent contractor exercises an independent employment or occupation in providing services. The independent contractor is answerable to the employer only as to the results of the work and not as to how the work is to be performed. A person who employs an independent contractor ordinarily is not legally responsible to others for the acts or omissions of the independent contractor.

Whether one is an agent or independent contractor depends upon who has the right to general and immediate control over the methods and manner in which the work is done. If the one who performs the work has that right, then that person is an independent contractor. If the employer has that right, then the employer is a principal and the one who performs the work is the agent.

(Rev. 10/04)

An independent contractor may consider and follow any suggestions that the employer may make. These actions do not change the independent contractor into an agent so long as the independent contractor retains the right of control over the methods and manner in which the work is done.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

SPECIAL INSTRUCTION REFLECTING THE COURT'S ORDER OF SUMMARY JUDGMENT

It has been determined in this matter that Ms. Campbell was experiencing pain, headaches, and dizziness when she went to see her physician Luay Shayya, M.D., who is a board-certified neurologist. Dr. Shayya diagnosed Ms. Campbell with a concussion and post-concussive syndrome due to the trauma she sustained to her head at Luke's on the date in question. - received occipital nerve blocks from Dr. Shayya as part of her care and treatment of her concussion and her post-concussive syndrome.

Dr. Shayya ordered that Ms. Campbell remain off work from March 2, 2020 to until May 26, 2020, at which time she could return to work under the following restrictions: 4 hour work day for the first week; 5 hour work day for the second week; 6 hour work day for the third week; 7 hour work day for the fourth week; 8 hour work day for the fifth week; after the fifth week, she could return to work with no restrictions. Ms. Campbell's concussion and its related symptoms that Dr. Shayya treated were caused by her fall at Luke's on February 29, 2020. All treatments Ms. Campbell received under Dr. Shayya's care were medically necessary. All opinions expressed by Dr. Shayya herein are to a reasonable degree of medical probability and certainty.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

These facts are not in dispute and you must consider them settled for purposes of this trial.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 14.01
COMPENSATORY DAMAGES

If, under the Court's instructions, you find that the plaintiff is entitled to damages, then you must award plaintiff damages that will reasonably compensate the plaintiff for claimed loss or harm which has been proven by a preponderance of the evidence, provided you also find it was or will be suffered by the plaintiff and was legally caused by the act or omission [or condition] upon which you base your finding of liability.

Each of these elements of damage is separate. You may not duplicate damages for any element by also including that same loss or harm in another element of damage. In determining the amount of damages, you should consider the following elements:

Medical expenses. **Medical expenses are the cost of medical care, services and supplies reasonably required and actually given in the treatment of the plaintiff as shown by the evidence.**

Lost Wages. **Lost wages are is the value of earnings that have been lost in the past as a result of the injury in question.**

Past Pain and suffering. **Pain and suffering is reasonable compensation for any physical pain and discomfort and for any mental pain and discomfort suffered by the plaintiff. Mental discomfort includes anguish, grief, shame, or worry.**

Past Loss of enjoyment of life**: Loss of the enjoyment of life takes into account the loss of the normal enjoyments and pleasures in life in the past as well as limitations on the person's lifestyle resulting from the injury.**

Past pain and suffering and loss of enjoyment of life are separate types of losses. A plaintiff is entitled to recover for these losses if the plaintiff proves

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

by a preponderance of the evidence that each was caused by the defendant's fault.

No definite standard or method of calculation is prescribed by law by which to fix reasonable compensation for pain and suffering and loss of enjoyment of life. Nor is the opinion of any witness required as to the amount of such reasonable compensation. In making an award for pain and suffering and/or loss of enjoyment of life, you shall exercise your authority with calm and reasonable judgment and the damages you fix shall be just and reasonable in light of the evidence.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 14.12
MEDICAL BILL PRESUMPTION

In this case, some medical bills have been introduced in evidence. Because these bills do not exceed a certain sum established by law, you shall presume these expenses were reasonable and necessary.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 15.01
RESPECTIVE DUTIES OF JUDGE AND JURY

Members of the jury, now that you have heard all of the evidence and the arguments of the lawyers, it is my duty to instruct you on the law that applies to this case. You will be provided with a written copy of these jury instructions.

It is your duty to find the facts from all the evidence in the case. After you determine the facts, you must apply the law that has been given to you, whether you agree with it or not. You must not be influenced by any personal likes or dislikes, prejudice or sympathy. You must decide the case solely on the evidence before you and according to the law given to you.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 15.02

INSTRUCTIONS TO BE CONSIDERED AS A WHOLE

All of the instructions are equally important. The order in which these instructions are given has no significance. You must follow all of the instructions and not single out some and ignore others.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 15.03
STATEMENTS OF COUNSEL - EVIDENCE STRICKEN OUT - INSINUATIONS OF QUESTIONS

In reaching your verdict you may consider only the evidence that was admitted. Remember that any questions, objections, statements or arguments made by the attorneys during the trial are not evidence. If the attorneys have stipulated or agreed to any fact, however, you will regard that fact as having been proved.

Testimony that you have been instructed to disregard is not evidence and must not be considered. If evidence has been received only for a limited purpose, you must follow the limiting instructions I have given you. You are to decide the case solely on the evidence received at trial.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 15.04

ORDINARY OBSERVATIONS AND EXPERIENCES

Although you must only consider the evidence in this case in reaching your verdict, you are not required to set aside your common knowledge. You are permitted to weigh the evidence in the light of your common sense, observations and experience.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 15.08
EACH DEFENDANT ENTITLED TO SEPARATE CONSIDERATION

There is more than one defendant in this lawsuit. If you find that one defendant is at fault you are not required to return a verdict against both. You will decide each defendant's case separately. Each defendant is entitled to a fair and separate consideration. Unless you are instructed to the contrary, the instructions apply to the facts of each defendant's case.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 15.11
ALL INSTRUCTIONS NOT NECESSARILY APPLICABLE

The Court has given you various rules of law to help guide you to a just and lawful verdict. Whether some of these instructions will apply will depend upon what you decide are the facts. The Court's instructions on any subject including instructions on damages, must not be taken by you to indicate the Court's opinion of the facts you should find or the verdict you should return.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - 15.12

USE OF JUROR NOTES

(After Trial)

Some of you may have taken notes during the trial. Once you retire to the jury room you may refer to your notes, but only to refresh your own memory of the witnesses' testimony. You are free to discuss the testimony of the witnesses with your fellow jurors, but each of you must rely upon your own individual memory as to what a witness did or did not say.

In discussing the testimony, you may not read your notes to your fellow jurors or otherwise tell them what you have written. You should never use your notes to persuade or influence other jurors. Your notes are not evidence. Your notes should carry no more weight than the unrecorded recollection of another juror.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 15.15
HOW JURORS SHOULD APPROACH THEIR TASK

Your attitude and conduct at the beginning of your deliberations are very important. It is rarely productive for any juror to immediately announce a determination to hold firm for a certain verdict before any deliberations or discussions take place. Taking that position might make it difficult for you to consider the opinions of your fellow jurors or change your mind, even if you later decide that you might be wrong. Please remember that you are not advocates for one party or another. You are the judges of the facts in this case.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 15.16
EACH JUROR SHOULD DELIBERATE AND VOTE ON EACH ISSUE TO BE DECIDED

Each of you should deliberate and vote on each issue to be decided.

Before you return your verdict, however, each of you must agree on the verdict so that each of you will be able to state truthfully that the verdict is yours.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

.P.I. - CIVIL 15.17

INSTRUCTIONS AS TO UNANIMOUS VERDICT

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

It is your duty to consult with one another and to reach an agreement if you can do so without violence to individual judgment. 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 to change your opinion if you are convinced that it is not correct. 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.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 15.18
CHANCE OR QUOTIENT VERDICT PROHIBITED

The law forbids you to determine any issue in this case by chance. If you decide that a party is entitled to recover damages, you must not arrive at the amount of those damages by agreeing in *advance:* 1) to use each juror's independent estimate of the amount to be awarded; 2) to total those amounts; 3) to divide the total by twelve; and 4) to make the resulting average the amount that you award.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 15.19
QUESTIONS DURING DELIBERATIONS

If a question arises during deliberations and you need further instructions, please print your question on a sheet of paper, call my office at 615-862-5901, and give the question to my court officer.

I will read your question and I may call you back into the courtroom to try to help you. Please understand that I may only answer questions about the law and I cannot answer questions about the evidence.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 15.20
PROHIBITED RESEARCH AND COMMUNICATION

I remind you that you are to decide this case based only on the evidence you have heard in court and on the law I have given you. You are prohibited from considering any other information and you are not to consult any outside sources for information. You must not communicate with or provide any information, photographs or video to anyone by any means about this case or your deliberations. You may not use any electronic device or media, such as a telephone, cell phone, smart phone or computer; the Internet, any text or instant messaging service; or any chat room, blog, or website such as Facebook, My Space, LinkedIn, YouTube or Twitter, to communicate with anyone or to conduct any research about this case.

EFILED 10/02/23 01:50 PM CASE NO. 21C382 Joseph P. Day, Clerk

T.P.I. - CIVIL 15.21
CONCLUDING INSTRUCTION

You will now retire and select one of you to be the presiding juror for your deliberations. As soon as all of you have agreed upon a verdict, the presiding juror will complete and sign the verdict form and you will return with it to this room.

You may deliberate only when all of you are present in the jury room. You may not resume your deliberations after any breaks until all of you have returned to the jury room.