

IN THE IOWA DISTRICT COURT IN AND FOR LINN COUNTY

SOUTHERN DISASTER RECOVERY, LLC,

Plaintiff/Counterclaim Defendant,

vs.

CITY OF MARION, IOWA,

Defendant/Counterclaim Plaintiff.

No. LACV 098830

**JURY INSTRUCTIONS**

CLERK OF DISTRICT COURT  
LINN COUNTY, IOWA

2023 MAR 17 PM 3:51

FILED

Members of the Jury: In this case, Plaintiff, Southern Disaster Recovery, LLC ("SDR"), claims it was injured as a result of Defendant, City of Marion, Iowa (the "City"), harassing SDR by knowingly reporting or causing to be reported false information to law enforcement authorities implicating SDR in criminal activity.

The City denies the claims made against it.

Do not consider this summary as proof of any claim. Decide the facts from the evidence and apply the law which I will now give you.

## **INSTRUCTION NO. 2**

My duty is to tell you what the law is. Your duty is to accept and apply this law.

You must consider all of the instructions together because no one instruction includes all of the applicable law.

The order in which I give these instructions is not important.

Your duty is to decide all fact questions.

As you consider the evidence, do not be influenced by any personal sympathy, bias, prejudices or emotions. It is common to have hidden or implicit thoughts that help us form our opinions. You are making very important decisions in this case. You must evaluate the evidence carefully. You must avoid decisions based on things such as generalizations, gut feelings, prejudices, fears, sympathies, stereotypes, or inward or outward biases. The law demands that you return a just verdict, based solely on the evidence, your reason and common sense, and these Instructions. As jurors, your sole duty is to find the truth and do justice.

### **INSTRUCTION NO. 3**

Whenever a party must prove something they must do so by the preponderance of the evidence.

Preponderance of the evidence is evidence that is more convincing than opposing evidence. Preponderance of the evidence does not depend upon the number of witnesses testifying on one side or the other.

#### **INSTRUCTION NO. 4**

You shall base your verdict only upon the evidence and these Instructions.  
Evidence is:

1. Testimony in person or by deposition.
2. Exhibits received by the court.
3. Stipulations which are agreements between the attorneys.
4. Any other matter admitted (e.g., answers to interrogatories, matters which judicial notice was taken, etc.).

Evidence may be direct or circumstantial. The weight to be given any evidence is for you to decide. Sometimes, during a trial, references are made to pre-trial statements and reports, witnesses' depositions, or other miscellaneous items. Only those things formally offered and received by the court are available to you during your deliberations. Documents or items read from or referred to which were not offered and received into evidence, are not available to you.

The following are not evidence:

1. Statements, arguments, questions and comments by the lawyers.
2. Objections and rulings on objections.
3. Any testimony I told you to disregard.
4. Anything you saw or heard about this case outside the courtroom.

### **INSTRUCTION NO. 5**

During this trial, you have heard the word 'interrogatory.' An interrogatory is a written question asked by one party of another, who must answer it under oath in writing. Consider interrogatories and the answers to them as if the questions had been asked and answered here in court.

### **INSTRUCTION NO. 6**

The Plaintiff served on the Defendant a written request for the admission of the truth of certain matters of fact. You will regard as being conclusively proved all such matters of fact which were expressly admitted by the Defendant or which Defendant failed to deny.

## INSTRUCTION NO. 7

You will decide the facts from the evidence. Consider the evidence using your observations, common sense and experience. You must try to reconcile any conflicts in the evidence; but, if you cannot, you will accept the evidence you find more believable.

In determining the facts, you may have to decide what testimony you believe. You may believe all, part or none of any witnesses' testimony.

There are many factors which you may consider in deciding what testimony to believe; for example:

1. Whether the testimony is reasonable and consistent with other evidence you believe;
2. The witnesses' appearance, conduct, age, intelligence, memory and knowledge of the facts; and
3. The witnesses' interest in the trial, their motive, candor, bias and prejudice.

### **INSTRUCTION NO. 8**

An expert witness was asked to assume certain facts were true and to give an opinion based on that assumption. This is called a hypothetical question. If any fact assumed in the question has not been proved by the evidence, you should decide if that omission affects the value of the opinion.



## **INSTRUCTION NO. 9**

You have heard testimony from persons described as experts. Persons who have become experts in a field because of their education and experience may give their opinion on matters in that field and the reasons for their opinion.

Consider expert testimony just like any other testimony. You may accept it or reject it. You may give it as much weight as you think it deserves, considering the witness' education and experience, the reasons given for the opinion, and all the other evidence in the case.

### **INSTRUCTION NO. 10**

You have heard evidence claiming party witnesses made statements before this trial while under oath and while not under oath.

If you find such a statement was made, you may regard the statement as evidence in this case the same as if the party witness had made it under oath during the trial.

If you find such a statement was made and was inconsistent with the party witness's testimony during the trial, you may also use the statement as a basis for disregarding all or any part of the party witness's testimony during the trial but you are not required to do so. You should not disregard the party witness's testimony during the trial if other credible evidence supports it or if you believe it for any other reason

### **INSTRUCTION NO. 11**

The fact that a plaintiff or defendant is a corporation should not affect your decision. All persons are equal before the law, and corporations, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

## **INSTRUCTION NO. 12**

You may not communicate about this case before reaching your verdict. This includes via cell phone and electronic media such as text messages, email, electronic messaging applications, and any social media platform including, but not limited to, Facebook, LinkedIn, YouTube, Twitter, TikTok, Instagram, Snapchat, and any other social media applications you may use.

Do not do any research or make any investigation about this case on your own. Do not visit or view any place discussed in this case, and do not use Internet or application-based maps or programs, or any other application, program, or device to search for or view any place discussed in the testimony. Also, do not research any information about this case, the law, or the people involved, including the parties, the witnesses, the lawyers, or the judge. This includes using the Internet to research events or people referenced in the trial.

This case will be tried on evidence presented in the courtroom. If you conduct independent research, you will be relying on matters not presented in court. The parties have a right to have this case decided on the evidence they know about and that has been introduced here in court. If you do some research or investigation or experiment that we do not know about, then your verdict may be influenced by inaccurate, incomplete, or misleading information that has not been tested by the trial process, including the oath to tell the truth and by cross-examination. All of the parties are entitled to a fair trial, rendered by an impartial jury, and you must conduct yourself so as to maintain the integrity of the trial process. If you decide a case based on information not presented in court, you will have denied the parties a fair trial in accordance with the rules of this state and you will have done an injustice. It is very important that you abide by these rules. [Failure to follow these instructions may result in the case having to be retried and could result in you being held in contempt and punished.]

It is important that we have your full and undivided attention during this trial.

### **INSTRUCTION NO. 13**

Plaintiff, SDR, claims that Defendant, the City, harassed SDR by knowingly reporting or causing to be reported false information to law enforcement authorities implicating SDR in criminal activity. In order to recover under this claim, Plaintiff, SDR, must prove all of the following propositions:

- (1) The City reported, or caused to be reported, false information to law enforcement authorities implicating SDR in some criminal activity, knowing that the information was false, or reported the alleged occurrence of a criminal act, knowing the act did not occur;
- (2) The City did so with the specific intent to intimidate, annoy or alarm SDR; and
- (3) SDR was damaged by the City's conduct alleged above.

#### **INSTRUCTION NO. 14**

"Specific intent" means not only being aware of doing an act and doing it voluntarily, but in addition, doing it with a specific purpose in mind. Because determining the City of Marion representatives' specific intent requires you to decide what they were thinking when an act was done, it is seldom capable of direct proof. Therefore, you should consider the facts and circumstances surrounding the act to determine the City's specific intent. You may, but are not required to, conclude a person intends the natural results of their acts.

### **INSTRUCTION NO. 15**

If you find SDR is entitled to recover damages, it is your duty to determine the amount. In doing so, you shall consider the following items:

1. General damages. General damages are damages imposed for the purpose of compensating SDR for the harm you find that the false statement caused to its reputation. In determining this item of damage, you may consider SDR's reputation before the statement was made. You may also consider the extent to which the statement was communicated.
2. Loss of use of SDR's funds.

Damages must be limited to those which naturally result and were caused by the Defendant's false statement.

### **INSTRUCTION NO. 16**

During the trial, you have been allowed to take notes. You may take these with you to the jury room to use in your deliberations. Remember, these are notes and not evidence. Generally, they reflect the recollection or impressions of the evidence as viewed by the person taking them and may be inaccurate or incomplete.

Upon reaching a verdict, leave the notes in the jury room and they will be destroyed.



### **INSTRUCTION NO. 17**

Upon retiring you shall select a foreman or forewoman. It will be his or her duty to see discussion is carried on in an orderly fashion, the issues are fully and freely discussed, and each juror is given an opportunity to express his or her views.

Your attitude at the beginning of your deliberations is important. It is not a good idea for you to take a position before thoroughly discussing the case with the other jurors. If you do this, individual pride may become involved and you may later hesitate to change an announced position even if shown it may be incorrect. Remember you are not partisans or advocates, but are judges - judges of the facts. Your sole interest is to find the truth and do justice.

## INSTRUCTION NO. 18

I am giving you the one verdict form and three questions. During the first six hours of deliberations, excluding meals and recesses outside your jury room, your decision must be unanimous. If you all agree, the verdict and answers to questions must be signed by your foreman or forewoman.

After deliberating for six hours from 3 o'clock 3:30pm. excluding meals or recesses outside your jury room, then it is necessary that only seven of you agree upon the answers to the questions. In that case, the verdict and questions must be signed by all seven jurors who agree.

When you have agreed upon the verdict and answers to questions and appropriately signed it, tell the Court Attendant.

  
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JOHN D. TELLEEN, DISTRICT COURT JUDGE

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