

Admonitory Instruction Subcommittee
Report to Supreme Court Advisory Committee
[date], 2007

1. **The Draft:** The Pattern Jury Charge Oversight Committee has prepared a plain language draft of the admonitory instructions ordered by the Court pursuant to Rule 226a, which are also included in the Pattern Jury Charges. The draft is the culmination of a plain language project that included field testing of current Pattern Jury Charges and plain language revisions. The field testing determined that average jurors often do not understand some words used in a jury charge. Wayne Schiess, a member of the Committee, and a member of the Legal Writing faculty at the University of Texas School of Law, prepared the draft of the admonitory instructions, which was discussed at length by a subcommittee of the PJC Oversight Committee and the full committee. Our final report is included here.
2. **Instructions under consideration:** Rule 226a now contains PJC 100.1 (Instructions to Jury Panel Before Voir Dire Examination), 100.2 (Instructions to Jury after Jury Selection), 100.3 (Charge of the Court) and 100.5 (Instructions to Jury after Verdict). The PJC has a number of other admonitory instructions that are not included in the Supreme Court's Order under Rule 226a (bifurcated trial, if permitted to separate, disagrees about testimony, circumstantial evidence, proximate cause, deadlocked jury, note-taking, privilege-no adverse interest).
3. **What we did:**
 - a. **PJC admonitory instructions.** We looked at all the PJC admonitory instructions even though they are not part of the Supreme Court 226a Order. Although not technically part of our report to the SCAC, we have included all of our recommendations.
 - b. **Additional admonitory instructions.** We polled judges for suggested instructions, and added the instruction on language interpreters, which we recommend be included as an optional instruction under Rule 226a. We also recommend that the instruction on juror note-taking be included as an additional instruction under Rule 226a. And we included the rules on juror oaths (Rules 226 and 236).

Admonitory Instruction Subcommittee
PJC Oversight Committee

Report to Supreme Court Advisory Committee
On Plain Language Rewrite of Admonitory Instructions

June 28, 2007

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**Current Texas Rule of Civil Procedure
226a(I) (PJC 100.1)**

Instructions to Jury Panel and Jury

**Ladies and Gentlemen of the Jury
Panel:**

The case that is now on trial is _____ vs. _____. This is a civil action which will be tried before a jury.

Your duty as jurors will be to decide the disputed facts. It is the duty of the judge to see that the case is tried in accordance with the rules of law. In this case, as in all cases, the actions of the judge, parties, witnesses, attorneys and jurors must be according to law.

The Texas law permits proof of any violation of the rules of proper jury conduct. By this I mean that jurors and others may be called upon to testify in open court about acts of jury misconduct. I instruct you, therefore, to follow carefully all instructions which I am now going to give you, as well as others which you will receive while this case is on trial. If you do not obey the instructions I am about to give you, it may become necessary for another jury to retry this case with all of the attendant waste of your time here and the expense to the litigants and the taxpayers of this county for another trial.

**Proposed Texas Rule of Civil Procedure
226a(I) (PJC 100.1)**

**Instructions to the panel before jury
selection**

Members of the Jury Panel [*or* Ladies and Gentlemen]: We are about to begin selecting a jury. Right now, you are members of what we call a panel. After the lawyers ask you some questions, 12 of you will be chosen for the jury. But before we start asking questions and choosing jurors, I will give you some information and then go over the instructions.

First of all, we thank you for being here. Even if you are not chosen for the jury, you are performing a valuable service that is your right and duty as a citizen of a free country.

Now I will give you some background about this case. This is a civil trial, which means it is a lawsuit that is not a criminal case. The parties are as follows: The plaintiff is _____, and the defendant is _____.

[description of the current case]

Jurors sometimes ask what it means when I say we want jurors who do not have any bias or prejudice. The word "prejudice" comes from "pre-judge" or judging something before you have all the information. We want jurors who will not pre-judge the case and who will decide the case based only on the evidence presented in court and the law that I explain.

If you are chosen for the jury, you will listen to the evidence and decide the facts of the case. I, as the judge, will manage the process and make sure the law is applied

<p>These instructions are as follows:</p> <ol style="list-style-type: none"> 1. Do not mingle with nor talk to the lawyers, the witnesses, the parties, or any other person who might be connected with or interested in this case, except for casual greetings. They have to follow these same instructions and you will understand it when they do. 2. Do not accept from, nor give to, any of those persons any favors however slight, such as rides, food or refreshments. 3. Do not discuss anything about this case, or even mention it to anyone whomsoever, including your wife or husband, nor permit anyone to mention it in your hearing until you are discharged as jurors or excused from this case. If anyone attempts to discuss the case, report it to me at once. 4. The parties through their attorneys have the right to direct questions to each of you concerning your qualifications, background, experiences and attitudes. In questioning you, they are not meddling in your personal affairs, but are trying to select fair and impartial jurors who are free 	<p>correctly. I assure you we will handle this case as fast as we can, but we cannot rush things. We have to do it fairly and we have to follow the law.</p> <p>Every juror must obey the instructions that I am about to give you. If you do not follow these instructions, I may have to order a new trial and start this process over again. That would be a waste of time and money. It is also possible that you may be held in contempt or punished in some other way, so please listen carefully to these instructions.</p> <p>These are the instructions:</p> <ol style="list-style-type: none"> 1. Remember that you took an oath that you will tell the truth, so be honest when the lawyers ask you questions, and always give complete answers. Sometimes a lawyer will ask a question of the whole panel instead of just one person. If the question applies to you, raise your hand and keep it raised until you are called on. 2. Do not mingle or talk with the lawyers, the witnesses, the parties, or anyone involved in the case. You can exchange casual greetings like "hello" and "good morning." Other than that, do not talk with them at all. They have to follow these instructions too, so they will not be offended. Also, do not accept any favors from the lawyers, the witnesses, the parties, or anyone involved in the case, and do not do any favors for them. This includes
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<p>from any bias or prejudice in this particular case.</p> <p>a. Do not conceal information or give answers which are not true. Listen to the questions and give full and complete answers.</p> <p>b. If the attorneys ask some questions directed to you as a group which require an answer on your part individually, hold up your hand until you have answered the questions.</p> <p>Do you understand these instructions? If not, please let me know now. Whether you are selected as a juror for this case or not, you are performing a significant service which only free people can perform. We shall try the case as fast as possible consistent with justice, which requires a careful and correct trial. If selected on the jury, unless I instruct you differently, you will be permitted to separate at recesses and for meals, and at night. The attorneys will now proceed with their examination.</p>	<p>favours such as giving rides and food. We ask you not to mingle or accept favours to avoid looking like you are friendly with one side of the case.</p> <p>3. Do not discuss this case with anyone, even your spouse or friend. Do not allow anyone to discuss the case with you or in front of you. If anyone tries to discuss the case with you, tell me. We ask you not to discuss the case with others because we do not want you to be influenced by something other than the evidence presented in court.</p> <p>Do you understand these instructions? If you do not, please tell me now.</p> <p>The lawyers will now begin asking questions.</p>
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<p align="center">Current Texas Rule of Civil Procedure 226a(II) (PJC 100.2)</p>	<p align="center">Proposed Texas Rule of Civil Procedure 226a(II) (PJC 100.2) Instructions for the jury after it has been selected</p>
<p align="center">Oral Instructions</p> <p>Ladies and Gentlemen:</p> <p>By the oath which you take as jurors, you become officials of this court and active participants in the public administration of justice. I now give you further instructions which you must obey throughout this trial.</p> <p>It is your duty to listen to and consider the evidence and to determine fact issues later submitted to you, but I, as judge, will decide matters of the law. You will now receive written instructions which you will observe during this trial, together with such other instructions as I may hereafter give, or as heretofore I have given to you.</p> <p>(A copy of the written instructions set out below in this Section II shall thereupon be handed to each juror.)</p> <p>As you examine the instructions which have just been handed to you, we will go over them briefly together. The first three instructions have previously been stated, and you will continue to observe them throughout the trial. These and the other instructions just handed to you are as follows:</p> <p>(The written instructions set out below in this Section II shall thereupon be read by the court to the jury.)</p> <p>Counsel, you may proceed.</p>	<p>Members of the Jury [<i>or</i> Ladies and Gentlemen]: You have now been chosen to serve on this jury. Because of the oath you have taken and your selection for the jury, you become officials of this court and active participants in our justice system.</p>

<p style="text-align: center;">Written Instructions</p> <p><i>[New Electronic Device Instruction]</i></p> <ol style="list-style-type: none"> 1. Do not mingle with nor talk to the lawyers, the witnesses, the parties, or any other person who might be connected with or interested in this case, except for casual greetings. They have to follow these same instructions and you will understand it when they do. 2. Do not accept from, nor give to, any of those persons any favors however slight, such as rides, food or refreshments. 3. Do not discuss anything about this case, or even mention it to anyone whomsoever, including your wife or husband nor permit anyone to mention it in your hearing until you are discharged as jurors or excused from this case. If anyone attempts to discuss the case, report it to me at once. 4. Do not even discuss this case among yourselves until after you have heard all of the evidence, the court's charge, the attorneys' arguments and until I have sent you to the jury room to consider your verdict. 5. Do not make any investigation about the facts of this case. Occasionally we have a juror who privately seeks out information about a case on trial. This is improper. All evidence must be presented in open court so that each side may question the 	<p>[hand out the written instructions]</p> <p>What you are receiving is a set of written instructions, and I am going to discuss them with you now. Some of them you have heard before, and some are new.</p> <ol style="list-style-type: none"> 1. It is your duty to listen to and consider the evidence and to determine fact issues later submitted to you. 2. Please turn off all cell phones and electronic devices. Do not record or photograph any part of these court proceedings. 3. Please remember what I said about not mingling with those involved in this case, not accepting favors from those involved with this case, and not discussing the case with anyone. We ask you not to mingle or accept favors to avoid looking like you are friendly with one side of the case. We ask you not to discuss the case with others because we do not want you to be influenced by something other than the evidence presented in court. 4. Please discuss this case only with other jurors and only after I have given you the final instructions and sent you to the jury room to reach a verdict. This will be after you have heard all the evidence, all my instructions, and all the lawyers' arguments. We ask you not to discuss the case with your fellow jurors until the end of the case so that you do not form opinions about the case before you have heard everything. 5. Do not investigate this case on your
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witnesses and make proper objection. This avoids a trial based upon secret evidence. These rules apply to jurors the same as they apply to the parties and to me. If you know of, or learn any-thing about, this case except from the evidence admitted during the course of this trial, you should tell me about it at once. You have just taken an oath that you will render a verdict on the evidence submitted to you under my rulings.

6. Do not make personal inspections, observations, investigations, or experiments nor personally view premises, things or articles not produced in court. Do not let anyone else do any of these things for you.

7. Do not tell other jurors your own personal experiences nor those of other persons, nor relate any special information. A juror may have special knowledge of matters such as business, technical or professional matters or he may have expert knowledge or opinions, or he may know what hap-pened in this or some other lawsuit. To tell the other jurors any of this information is a violation of these instructions.

8. Do not discuss or consider attorney's fees unless evidence about attorney's fees is admitted.

9. Do not consider, discuss, nor speculate whether or not any party is or is not protected in whole or in part by insurance of any kind.

10. Do not seek information contained in law books, dictionaries, public or private records or elsewhere, which is not admitted in evidence.

At the conclusion of all the evidence, I may submit to you a written charge asking

own. Do not inspect places or items from this case unless they are presented as evidence in court. Do not let anyone do those things for you. This rule is very important because we cannot have a trial based on evidence not presented in open court. Your conclusions about this case must be based only on what you see and hear in this courtroom. All the evidence must be presented in open court so the parties and their lawyers can test it and object to it. For example:

- Do not try to get information about the case from outside this courtroom.
- Do not go to places mentioned in the case to inspect the places for yourself.
- Do not look things up in law books, dictionaries, public records, or on the Internet.

These rules are very important. If a juror does any of these, tell that person to stop and report it to me immediately.

6. Do not tell other jurors your own experiences or other people's experiences. For example, you may have special knowledge of something in the case, such as business, technical, or professional information. You may even have expert knowledge or opinions, or you may know what happened in this case or another case. But keep it to yourself. Telling other jurors about it is wrong because it means the jury will be considering things that were not presented in court.

you some specific questions. You will not be asked, and you should not consider, whether one party or the other should win. Since you will need to consider all of the evidence admitted by me, it is important that you pay close attention to the evidence as it is presented.

The Texas law permits proof of any violation of the rules of proper jury conduct. By this I mean that jurors and others may be called upon to testify in open court about acts of jury misconduct. I instruct you, therefore, to follow carefully all instructions which I have given you, as well as others which you later receive while this case is on trial.

You may keep these instructions and review them as the case proceeds. A violation of these instructions should be reported to me.

7. Do not consider attorneys' fees unless I tell you to. Do not guess about attorneys' fees.

8. Do not consider insurance or who might be covered by insurance unless I tell you to. Do not guess about who might or might not be covered by insurance.

Do you understand these instructions? If you do not, please tell me now.

After you have heard all the evidence, I will give you instructions to follow as you make your decision. The instructions also will have questions for you to answer. You will not be asked which side should win, so do not be concerned about that. Instead, you will need to answer the specific questions I give you.

As I have said before, if you do not follow these instructions, I may have to order a new trial and start this process over again.

Keep these instructions and review them as we go through this case. If anyone does not follow these instructions, tell me.

**Current Texas Rule of Civil Procedure
226a(III) (PJC 100.3)
Court's Charge**

Ladies and Gentlemen of the Jury:

This case is submitted to you by asking questions about the facts, which you must decide from the evidence you have heard in this trial. You are the sole judges of the credibility of the witnesses and the weight to be given their testimony, but in matters of law, you must be governed by the instructions in this charge. In discharging your responsibility on this jury, you will observe all the instructions which have previously been given you. I shall now give you additional instructions which you should carefully and strictly follow during your deliberations.

1. Do not let bias, prejudice or sympathy play any part in your deliberations.
2. In arriving at your answers, consider only the evidence introduced here under oath and such exhibits, if any, as have been introduced for your consideration under the rulings of the Court, that is, what you have seen and heard in this courtroom, together with the law as given you by the court. In your deliberations, you will not consider or discuss anything that is not represented by the evidence in this case.
3. Since every answer that is required by the charge is important, no juror should state or consider that any required answer is not important.
4. You must not decide who you think should win, and then try to answer the questions accordingly. Simply answer the questions, and do not discuss nor concern

**Proposed Texas Rule of Civil Procedure
226a(III) (PJC 100.3)**

**General Instructions to the jury before
answering the questions and reaching a
verdict**

Members of the Jury [*or* Ladies & Gentlemen]: You are about to go to the jury room to reach a verdict. This means you will apply the law and answer the questions I will give you.

Remember: You are to make up your own minds about the facts. You are the only judges of the credibility of the witnesses and the weight to give their testimony. But on matters of the law, you must follow the instructions I have given you before and those I will give you now. Please remember what I said about not discussing the case until you are in the jury room.

In just a moment I will be giving you a set of questions. Here are the instructions for answering the questions:

1. Do not let bias, prejudice, or sympathy play any part in your decision.
2. Base your answers only on what was presented in court and on the law I explain to you. Please remember what I have said about not sharing your own special knowledge or experiences. This case must be decided only on the facts presented in court and on the law I give you.
3. If my instructions use a word in a way that is different from its ordinary meaning, use the meaning I give you, which will be a proper legal definition.

yourselves with the effect of your answers.

5. You will not decide the answer to a question by lot or by drawing straws, or by any other method of chance. Do not return a quotient verdict. A quotient verdict means that the jurors agree to abide by the result to be reached by adding together each juror's figures and dividing by the number of jurors to get an average. Do not do any trading on your answers; that is, one juror should not agree to answer a certain question one way if others will agree to answer another question another way.

6. Unless otherwise instructed, you may answer a question upon the vote of ten or more jurors. If you answer more than one question upon the vote of ten or more jurors, the same group of at least ten of you must agree upon the answers to each of those questions.

4. All the questions and answers are important. No one should say that any question or answer is not important.

5. A yes answer must be based on a preponderance of the evidence unless you are told otherwise.

- The term "preponderance of the evidence" is a legal phrase that means the greater weight and degree of credible evidence presented in this case. If you do not find that a preponderance of the evidence supports a yes answer, then answer no.

Note: Testing revealed a lack of comprehension of this term, but the Committee recommends no change.

- Whenever a question requires an answer other than yes or no, your answer must be based on a preponderance of the evidence unless you are told otherwise.

6. Do not decide who you think should win before you answer the questions and then just answer the questions to match your decision. Answer each question carefully without considering who will win.

7. Do not answer questions by drawing straws or by any method of chance.

8. Some questions might ask you for a dollar amount. Do not decide on a dollar amount by adding up each juror's amount and then figuring the average.

9. Do not trade your answers. For example, do not say "I will answer this question your way if you answer

<p>These instructions are given you because your conduct is subject to review the same as that of the witnesses, parties, attorneys and the judge. If it should be found that you have disregarded any of these instructions, it will be jury misconduct and it may require another trial by another jury; then all of our time will have been wasted.</p> <p>The presiding juror or any other who observes a violation of the court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.</p> <p>[Definitions, questions and special instructions given to the jury will be transcribed here.]</p> <p>After you retire to the jury room, you will select your own presiding juror. The first thing the presiding juror will do is to have this complete charge read aloud and then you will deliberate upon your answers to the questions asked.</p> <p>_____ Judge Presiding</p>	<p>another question my way.”</p> <p>10. The answers to the questions must be based on the decision of at least 10 of the 12 jurors unless otherwise instructed. The same 10 jurors must agree on all the answers and then to the entire verdict. Specifically—</p> <ul style="list-style-type: none"> • Do not agree to be bound by a vote of anything less than 10 jurors, even if it would be a majority. • If all 12 jurors agree, the presiding juror, or the elected foreperson, signs the verdict certificate for the entire jury. • If all 12 jurors do not agree, the 10 or more jurors who agree each sign the verdict certificate. <p>As I have said before, if you do not follow these instructions, I may have to order a new trial and start this process over again. That would be a waste of time and money. It is also possible that you may be held in contempt or punished in some other way. If a juror breaks any of these rules, tell that person to stop and report it to me immediately.</p> <p>[Definitions, questions and special instructions given to the jury will be transcribed here.]</p> <p>When you go into the jury room to answer the questions, the first thing you will need to do is choose a presiding juror.</p>
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	<p>The presiding juror has these duties:</p> <ul style="list-style-type: none"> • The first thing the presiding juror will do is to have this complete charge read aloud and then you will deliberate upon your answers to the questions asked. <p><i>[Note: The Committee felt that this instruction was not necessary if each juror receives a copy of the charge.]</i></p> <ul style="list-style-type: none"> • To preside over your deliberations. This means the presiding juror will take the lead in discussions, write down the answers that 10 or more of you agree on, and see that you follow the instructions. • To give written questions or comments to the judge. The presiding juror should give them to the bailiff, who will give them to me. • To vote on the answers to questions, just as all jurors do. • To sign the verdict if all 12 jurors agree or to get the signatures of all those who agree if the verdict is not by all 12. <p>Do you understand the duties of the presiding juror? If you do not, please tell me now.</p> <p>Once you have reached a verdict, the presiding juror must notify the bailiff. Do not notify the bailiff that you have reached a verdict until—</p> <ol style="list-style-type: none"> 1. you have answered all the questions,
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	<ol style="list-style-type: none">2. the presiding juror has written down the answers, and3. the presiding juror has signed the verdict certificate if all 12 jurors agree, or had all those who agree sign the verdict certificate if it is not signed by all 12.
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Current Texas Rule of Civil Procedure 226a(III) on Exemplary Damages	Proposed Texas Rule of Civil Procedure 226a(III)/Proposed New PJC 100.3A Exemplary Damages
<p>If exemplary damages are sought against a defendant, the jury must unanimously find, with respect to that defendant, (i) liability on at least one claim for actual damages that will support an award of exemplary damages, (ii) any additional conduct, such as malice or gross negligence, required for an award of exemplary damages, and (iii) the amount of exemplary damages to be awarded. The jury's answers to questions regarding (ii) and (iii) must be conditioned on a unanimous finding regarding (i), except in an extraordinary circumstance when the conditioning instruction would be erroneous. The jury need not be unanimous in finding the amount of actual damages. Thus, if questions regarding (ii) and (iii) are submitted to the jury for defendants D1 and D2, instructions in substantially the following form must immediately precede such questions:</p> <p>Preceding question (ii):</p> <p><i>Answer Question (ii) for D1 only if you unanimously answered "Yes" to Question[s] (i) regarding D1. Otherwise, do not answer Question (ii) for D1. [Repeat for D2.]</i></p> <p><i>You are instructed that in order to answer "Yes" to [any part of] Question (ii), your answer must be unanimous. You may answer "No" to [any part of] Question (ii) only upon a vote of 10 or more jurors. Otherwise, you must not answer [that part of] Question (ii).</i></p> <p>Preceding question (iii):</p> <p><i>Answer Question (iii) for D1 only if you answered "Yes" to Question (ii) of D1.</i></p>	<p>If exemplary damages are sought against a defendant, the jury must unanimously find, with respect to that defendant, (i) liability on at least one claim for actual damages that will support an award of exemplary damages, (ii) any additional conduct, such as malice or gross negligence, required for an award of exemplary damages, and (iii) the amount of exemplary damages to be awarded. The jury's answers to questions regarding (ii) and (iii) must be conditioned on a unanimous finding regarding (i), except in an extraordinary circumstance when the conditioning instruction would be erroneous. The jury need not be unanimous in finding the amount of actual damages. Thus, if questions regarding (ii) and (iii) are submitted to the jury for defendants D1 and D2, instructions in substantially the following form must immediately precede such questions:</p> <p>Preceding question (ii):</p> <p><i>Answer Question (ii) for D1 only if all of you answered "Yes" to Question[s] (i) regarding D1. Otherwise, do not answer Question (ii) for D1. [Repeat for D2.]</i></p> <p><i>You are instructed that in order to answer "Yes" to [any part of] Question (ii), you must unanimously agree (all of you) to your answer. You may answer "No" to [any part of] Question (ii) only upon a vote of 10 or more jurors. Otherwise, you must not answer [that part of] Question (ii).</i></p> <p>Preceding question (iii):</p> <p><i>Answer Question (iii) for D1 only if you</i></p>

<p><i>Otherwise, do not answer Question (iii) for D1. [Repeat for D2.]</i></p> <p><i>You are instructed that you must unanimously agree on the amount of any award of exemplary damages.</i></p> <p><i>These examples are given by way of illustration.]</i></p>	<p><i>answered "Yes" to Question (ii) of D1. Otherwise, do not answer Question (iii) for D1. [Repeat for D2.]</i></p> <p><i>You are instructed that you must unanimously agree (all of you) on the amount of any award of exemplary damages.</i></p> <p><i>These examples are given by way of illustration.]</i></p>
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Current Texas Rule of Civil Procedure 226a(III) Certificates	Proposed Texas Rule of Civil Procedure 226a(III)/PJC 100.3B Certificates																																						
<p>[The jury must certify to every answer in the verdict. The presiding juror may, on the jury's behalf, make the required certificate for any answers on which the jury is unanimous. For any answers on which the jury is not unanimous, the jurors who agree must each make the required certificate. If none of the jury's answers must be unanimous, the following certificate should be used:</p> <p style="text-align: center;">CERTIFICATE</p> <p>We, the jury, have answered the above and foregoing questions as herein indicated, and herewith return same into court as our verdict.</p> <p>(To be signed by the presiding juror if unanimous.)</p> <p style="text-align: right;">_____ Presiding Juror</p> <p style="text-align: right;">_____ Printed Name of Presiding Juror</p> <p>(To be signed by those rendering the verdict if not unanimous.)</p> <p>Jurors' Signatures Jurors' Printed Names</p> <p>[Insert the appropriate number of lines—11 or 5—for signatures and for printed names.]</p> <p>If some of the jury's answers must be unanimous and others need not be, the</p>	<p>Certificate: Regular Verdict</p> <p>We, the jury, have answered the questions as indicated and now submit them as our verdict.</p> <p><i>If all jurors agree, the presiding juror signs here:</i></p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; text-align: center;">_____ Presiding Juror</td> <td style="width: 50%; text-align: center;">_____ Printed name</td> </tr> </table> <p><i>If all jurors do not agree, those ten who do agree on all the answers and to the entire verdict, sign here:</i></p> <table border="0" style="width: 100%;"> <tr> <td style="width: 10%;"></td> <td style="width: 40%; text-align: center;">Signature</td> <td style="width: 50%; text-align: center;">Printed name</td> </tr> <tr><td>1.</td><td>_____</td><td>_____</td></tr> <tr><td>2.</td><td>_____</td><td>_____</td></tr> <tr><td>3.</td><td>_____</td><td>_____</td></tr> <tr><td>4.</td><td>_____</td><td>_____</td></tr> <tr><td>5.</td><td>_____</td><td>_____</td></tr> <tr><td>6.</td><td>_____</td><td>_____</td></tr> <tr><td>7.</td><td>_____</td><td>_____</td></tr> <tr><td>8.</td><td>_____</td><td>_____</td></tr> <tr><td>9.</td><td>_____</td><td>_____</td></tr> <tr><td>10.</td><td>_____</td><td>_____</td></tr> <tr><td>11.</td><td>_____</td><td>_____</td></tr> </table>	_____ Presiding Juror	_____ Printed name		Signature	Printed name	1.	_____	_____	2.	_____	_____	3.	_____	_____	4.	_____	_____	5.	_____	_____	6.	_____	_____	7.	_____	_____	8.	_____	_____	9.	_____	_____	10.	_____	_____	11.	_____	_____
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8.	_____	_____																																					
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11.	_____	_____																																					

court should obtain the required certificate in a clear and simple manner, which will depend on the nature of the charge. The court may consider using the following certificate at the end of the charge:

CERTIFICATE

We, the jury, have answered the above and foregoing questions as herein indicated, and herewith return same into court as our verdict.

I certify that the jury was unanimous in answering the following questions:

Answer "All" or list the answers:

Presiding Juror

Printed Name of Presiding Juror

(If the answers to some questions were not unanimous, the jurors who agreed to those answers must certify as follows:)

We agree to the answers to the following questions:

List the questions:

Jurors' Signatures Jurors' Printed Names

[Insert the appropriate number of lines—11 or 5—for signatures and for printed names.]

[The court may also determine that a clearer way of obtaining the required certificate is to segregate the questions to which the jury's answers must be unanimous and request a certificate for each part of the charge.]

[Or]

Certificate: Mixed Unanimous and non-unanimous Verdict

[If some of the jury's answers must be unanimous and others need not be, the court should prepare the required certificate in a clear and simple manner, which will depend on the nature of the charge. The court may consider using the following certificate at the end of the charge:]

We, the jury, have answered the questions as indicated and now submit them as our verdict.

The presiding juror fills out the next section:

I certify that all jurors agreed on the these questions (Answer "All" or list the answers):

Presiding Juror

Printed name

If all of you did not agree on the answers to some questions, the jurors who did agree to those answers must certify as follows:

We agree to the answers to the following questions:

List the questions:

	<div style="display: flex; justify-content: space-between;"> Signature Printed name </div> <p><i>[Insert the appropriate number of lines—11 or 5—for signatures and for printed names.]</i></p> <p>[The court may also decide that a clearer way of obtaining the required certificate is to segregate the questions to which the jury's answers must be unanimous and request a certificate for each part of the charge.]</p> <p style="text-align: center;"><i>[Or]</i></p> <p>Certificate: Second Part of Two-Part Trial with Unanimous Verdict</p> <p>We, the jury, have answered the questions as indicated and now submit them as our verdict.</p> <p><i>The presiding juror fills out the next section:</i></p> <p>I certify that all jurors agreed on the these questions (Answer "All" or list the answers):</p> <hr style="border: 0; border-top: 1px solid black; margin: 10px 0;"/> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="border-top: 1px solid black; width: 45%;"></div> <div style="border-top: 1px solid black; width: 45%;"></div> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> Presiding Juror Printed name </div>
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Current PJC 100.4
Additional Instruction for Bifurcated
Trial

LADIES AND GENTLEMEN OF THE
JURY:

In discharging your responsibility on this jury, you will observe all the instructions that have been previously given you.

JUDGE PRESIDING

Certificate

We, the jury, have answered the above and foregoing question[s] as herein indicated, and herewith return same into court as our verdict.

I certify that the jury was unanimous in answering the following question[s]:

Answer "All" or list questions: _____

PRESIDING JUROR

Printed Name of Presiding Juror

Proposed PJC 100.4
Additional instruction for a two-part trial

Members of the Jury [*or* Ladies and Gentlemen]:

In addition to these instructions, you must continue to follow all the other instructions I have given you.

[Additional definitions, questions, and special instructions given to the jury will be transcribed here.]

JUDGE PRESIDING

<p>Current Texas Rule of Civil Procedure 226a(IV) (PJC 100.5)</p>	<p>Proposed Texas Rule of Civil Procedure 226a(IV) (PJC 100.5) Instructions after a verdict</p>
<p>The court has previously instructed you that you should observe strict secrecy during the trial and during your deliberations, and that you should not discuss this case with anyone except other jurors during your deliberations. I am now about to discharge you. After your discharge, you are re-released from your secrecy. You will then be free to discuss the case and your deliberations with anyone. However, you are also free to decline to discuss the case and your deliberations if you wish.</p> <p>After you are discharged, it is lawful for the attorneys or other persons to question you to determine whether any of the standards for jury conduct which I have given you in the course of this trial were violated and to ask you to give an affidavit to that effect. You are free to discuss or not to discuss these matters and to give or not to give an affidavit.</p>	<p>Thank you for your verdict.</p> <p>I now release you from jury duty. I have told you that the only time you can discuss the case is with the other jurors in the jury room. Now you can discuss the case with anyone. But you can choose not to discuss the case; that is your right.</p> <p>After you are released from jury duty, the lawyers and others can ask you questions to see if the jury followed the instructions, and they can ask you to give a sworn statement. You are free to discuss the case with them and to give a sworn statement if you want. But you may choose not to discuss the case and not to give a sworn statement; that is your right.</p>

<p style="text-align: center;">Current PJC 100.6 Instruction to Jury If Permitted to Separate</p> <p>You are again instructed that it is your duty not to converse with, or permit yourselves to be addressed by, any other person on any subject connected with this trial.</p>	<p style="text-align: center;">Proposed PJC 100.6 Instructions if permitted to separate</p> <p>During this trial, you will be allowed to separate from each other in the evening.</p> <p>I remind you of the rule I explained before: Do not discuss this case with anyone, even your spouse or friend. Do not allow anyone to discuss the case with you or in front of you. If anyone tries to discuss the case with you, tell me.</p>
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<p align="center">Current PJC 100.7 Instruction if Jury Disagrees about Testimony</p>	<p align="center">Proposed PJC 100.7 Instructions if jurors disagree about testimony</p>
<p>MEMBERS OF THE JURY:</p> <p>You have made the following request in writing:</p> <p align="center"><i>[Insert copy of request.]</i></p> <p>Your request is governed by the following rule:</p> <p>“If the jury disagree as to the statement of any witness, they may, upon applying to the court, have read to them from the court reporter’s notes that part of such witness’ testimony on the point in dispute”</p> <p>If you report that you disagree concerning the statement of a witness and specify the point on which you disagree, the court reporter will search his notes and read to you the testimony of the witness on the point.</p> <p align="center"><hr/>JUDGE PRESIDING</p>	<p>You have asked to hear testimony from the trial.</p> <p>If you disagree about the testimony of a witness, please write down the exact point you disagree about, and I will have the court reporter search the record and read you the testimony of the witness. It will take some time for the court reporter to find this testimony and prepare to read it to you, so please be patient.</p>

<p style="text-align: center;">Current PJC 100.8 Circumstantial Evidence</p> <p>A fact may be established by direct evidence or by circumstantial evidence or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other facts proved.</p>	<p style="text-align: center;">Proposed PJC 100.8 Direct and indirect evidence</p> <p>During this trial, you may have heard two kinds of evidence. They are direct evidence and indirect evidence.</p> <p>Direct evidence means a fact was proved by a document, by an item, or by testimony from a witness who heard or saw the fact directly.</p> <p>Indirect evidence means the circumstances reasonably suggest the fact. Indirect evidence means that based on the evidence, you can conclude the fact is true. Indirect evidence is also called “circumstantial evidence.”</p> <p>For example, suppose a witness was outside and saw that it was raining. The witness could testify that it was raining, and this would be direct evidence. Now suppose the witness was inside a building and the witness testified that people walked into the building with wet umbrellas. This could prove by indirect evidence that it was raining outside.</p> <p>A fact may be proved by direct evidence or by indirect evidence or by both.</p>
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<p style="text-align: center;">Current PJC 100.9 Proximate Cause</p>	<p style="text-align: center;">No Proposed Changes</p>
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<p align="center">Current PJC 100.10 Instructions to Deadlocked Jury</p>	<p align="center">Proposed PJC 100.10 Instructions for a jury that cannot reach a verdict</p>
<p>I have your note that you are deadlocked. In the interest of justice, if you could end this litigation by your verdict, you should do so.</p> <p>I do not mean to say that any individual juror should yield his or her own conscience and positive conviction, but I do mean that when you are in the jury room, you should discuss this matter carefully, listen to each other, and try, if you can, to reach a conclusion on the questions. It is your duty as a juror to keep your mind open and free to every reasonable argument that may be presented by your fellow jurors so that this jury may arrive at a verdict that justly answers the consciences of the individuals making up this jury. You should not have any pride of opinion and should avoid hastily forming or expressing an opinion. At the same time, you should not surrender any conscientious views founded on the evidence unless convinced of your error by your fellow jurors.</p> <p>If you fail to reach a verdict, this case may have to be tried before another jury. Then all of our time will have been wasted.</p> <p>Accordingly, I return you to your deliberations.</p>	<p>You have told me you cannot reach a verdict.</p> <p>If, in the interest of justice, you can end this case by reaching a verdict, you should.</p> <p>But none of you should give in on what you believe is right or what you believe is the truth unless you are convinced to change your mind.</p> <p>Continue to discuss the case carefully, listen to each other, and try your best to reach a verdict. Keep your minds open to every reasonable argument the other jurors present. Perhaps you will change your mind. That way, you can reach a verdict that is fair, and you can feel good about it because you did not give in on what you believe.</p> <p>Do not assume your opinion is the only right one. You should be willing to consider other opinions. Do not be hasty in forming and expressing your opinions. But as I said, none of you should give in on what you believe is right or what you believe is the truth unless you are convinced to change your mind.</p> <p>If you cannot reach a verdict, I may have to order a new trial. That means we would have to do this over again and our time and money spent on this trial would be a waste. So please do your best to reach a verdict.</p> <p>Please return to the jury room and continue your discussions.</p>

<p align="center">Current PJC 100.11 Instructions on Jurors' Note-Taking (Comment)</p>	<p align="center">Proposed 226a/PJC 100.11 Optional Instructions on Jurors' Note-Taking</p>
<p>A number of trial judges permit jurors to take notes during the presentation of evidence. <i>See Manges v. Willoughby</i>, 505 S.W.2d 379 (Tex. Civ. App.—San Antonio 1974, writ ref'd n.r.e.). The Committee expresses no opinion on this practice. If, however, jurors are allowed to take notes during the trial, they should be instructed, both after jury selection and before retiring to deliberate, on how the notes are to be taken and used. Some of the points a judge may wish to cover are contained in the following sample instructions.</p> <p><i>[To be included in PJC 100.2 (instructions to jury after jury selection):]</i></p> <p>During trial, if taking notes will help focus your attention on the evidence, you may take notes. If taking notes will distract your attention from the evidence, you should not take notes. Any notes you take are for your own personal use, and you may not share them with other jurors. Your personal recollection of the evidence takes precedence over any notes you have taken. A juror may not rely on the notes of another juror.</p> <p><i>[To be included in PJC 100.3(charge of the court):]</i></p> <p>During trial it was permissible for you to take notes. You may carry those notes to the jury room for your personal use during deliberation on the court's charge. You may not share these notes with other jurors. Your personal recollection of the evidence takes precedence over any notes you have taken. A juror may not rely on the notes of</p>	<p>During the trial, if taking notes will help focus your attention on the evidence, you may take notes. If taking notes will distract your attention from the evidence, you should not take notes. Any notes you take are for your own personal use and may be taken back into the jury room and consulted during deliberations. Do not take your notes out of the courtroom. Do not share your notes with other jurors. Do not rely on another juror's notes.</p>

another juror. If you disagree about the evidence, the presiding juror may apply to the court and have the court reporter's notes read to the jury.	
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<p align="center">Current PJC 100.12 Privilege—No Adverse Inference</p> <p>You are instructed that you may not draw an adverse inference from [name of party]'s claim of [privilege asserted] privilege.</p>	<p align="center">Proposed PJC 100.12 Instructions if someone exercises a privilege other than 5th Amendment privilege</p> <p>You cannot assume anything from [name of party]'s claim of [privilege asserted] privilege.</p>
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<p>No Current PJC on Language Interpreters</p>	<p align="center">Proposed New 226a/PJC 100.13 Instruction Instructions to the jury on language interpreters</p> <p><i>Note: The Committee decided not to include an instruction that requires a juror to inform the judge if the juror disagrees with the official interpretation.</i></p> <p>During this trial, one or more witnesses or documents may be introduced in another language and interpreted into English. The interpreter has been certified by the State of Texas and has sworn to truly and wholly interpret into English the evidence given in this case.</p> <p>You may have special knowledge of the language being interpreted. But do not rely on your special knowledge and do not tell any other jurors any of your special knowledge.</p> <p>The official testimony of the witness or document is the English interpretation, and you must rely on the official interpretation personally and in your discussions with other jurors. Do not tell any of the other jurors if your own interpretation differs from the official interpretation.</p>
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<p style="text-align: center;">Current Rule 226 Oath to Jury Panel</p> <p>Before the parties or their attorneys begin the examination of the jurors whose names have thus been listed, the jurors shall be sworn by the court or under its direction, as follows: “You, and each of you, do solemnly swear that you will true answers give to all questions propounded to you concerning your qualifications as a juror, so help you God.”</p>	<p style="text-align: center;">Proposed Rule 226 Jury panel’s oath</p> <p>Before the parties or their lawyers begin asking questions of those on the jury panel, the judge, or someone acting under the judge’s direction, must swear in the panel members in substance as follows:</p> <p style="padding-left: 40px;">Do you swear or affirm that you will truthfully answer all questions asked of you concerning your qualifications as a juror, so help you God?</p>
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<p style="text-align: center;">Current Texas Rule of Civil Procedure 236 Oath to Jury</p> <p>The jury shall be sworn by the court or under its direction, in substance as follows: “You, and each of you, do solemnly swear that in all cases be-tween parties which shall be to you submitted, you will a true verdict render, according to the law, as it may be given you in charge by the court, and to the evidence submitted to you under the rulings of the court. So help you God.”</p>	<p style="text-align: center;">Proposed Texas Rule of Civil Procedure 236 Juror’s oath</p> <p>The judge, or someone acting under the judge’s direction, must swear in the jurors in substance as follows:</p> <p style="padding-left: 40px;">Do you swear or affirm that you will render a true verdict, according to the law and the evidence, so help you God?</p>
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