

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

Case No. 50-2009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

v.

SCOTT ROTHSTEIN, individually, and
BRADLEY J. EDWARDS, individually,

Defendants/Counter-Plaintiff.

COUNTER-DEFENDANT JEFFREY EPSTEIN'S
NOTICE OF NEW REQUESTED JURY INSTRUCTIONS AND VERDICT FORM
BASED ON SEPARATE TRIAL OF EDWARDS' COUNTERCLAIM

Counter-Defendant, Jeffrey Epstein ("Epstein"), pursuant to Florida Rule of Civil Procedure 1.470, files this Notice of New Requested Jury Instructions and Verdict Form.

No.	Cite	Jury Instruction	Accepted (Y/N)
1	101.1	Oath of Jurors Before Voir Dire	
2		Qualifications Instruction Before Voir Dire	
3	201.1	Description of the Case Before Voir Dire	
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5	201.3	Explanation of the Voir Dire Process	
6	101.2	Oath of Juror After Voir Dire	
7	202.2	Explanation of the Trial Procedure	
8	202.3	Note-Taking by Jurors	
9	202.4	Juror Questions	
10	301.1	Deposition Testimony, Interrogatories, Stipulated Testimony, Stipulations, and Admissions	
11	301.2	Instruction When First Item of Documentary, Photographic, or Physical Evidence is Admitted	
12	301.3	Instruction When Evidence is First Published to Jurors	
13	301.4	Instructions Regarding Visual or Demonstrative Aids	
14	301.5	Evidence Admitted for a Limited Purpose	
15	301.10	Instructions Before Recess	

No.	Cite	Jury Instruction	Accepted (Y/N)
16	406.1	Introduction	
17	406.2	Summary of Claims	
18	406.3	Greater Weight of the Evidence	
19	406.8	Issues on Claim	
20	406.4	Probable Cause	
21	406.5	Malice	
22	406.6	Instituting or Continuing a Proceeding	
23	406.7	Legal Cause	
24	406.8	Bona Fide Termination	
25	406.9	Burden of Proof on Claim	
26	406.12	Malicious Prosecution Damages	
27	601.1	Weighing the Evidence	
28	601.2	Believability of Witnesses	
29	601.5	Concluding Instruction (Before Final Argument)	
30	700	Closing Instructions	
31	503.2	Punitive Damages (Bifurcated Issue)	
32	301.11a	Adverse Inference – Fifth Amendment	

CERTIFICATE OF SERVICE

I certify that the foregoing document has been furnished to the attorneys listed on the Service List below on November 13, 2018, through the Court's e-filing portal pursuant to Florida Rule of Judicial Administration 2.516(b)(1).

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COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 1

101.1 Oath of Jurors Before Voir Dire

Do you solemnly swear or affirm that you will answer truthfully all questions asked of you as prospective jurors [so help you God]?

Source:

Florida Standard Jury Instruction (Civil) 101.1

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 2

Qualifications Instruction Before Voir Dire

Many of you have electronic devices such as cell phones, smartphones, tablets, and laptops. Even though you have not yet been selected as a juror, there are some strict rules that you must follow about electronic devices.

When you are called to a courtroom, the judge will give you specific instructions on the use of electronic devices. These rules are so important that the judge may tell you that you must turn off your cell phone or other electronic devices completely or that you cannot have your cell phone or electronic devices in the courtroom. If someone needs to contact you in case of an emergency, the judge will provide you with a phone number where you can receive messages.

If the trial judge allows you to keep your cell phones, computers, or other electronic devices, you cannot use them to take photographs, video recordings, or audio recordings of the proceedings in the courtroom or your fellow jurors. You must not use them to search the Internet or to find out anything related to any cases in the courthouse.

Why is this restriction imposed? This restriction is imposed because jurors must decide the case without distraction and only on the evidence presented in the courtroom. I know that, for some of you, these restrictions affect your normal daily activities and may require a change in the way you are used to communicating and perhaps even in the way you are used to learning.

If you investigate, research, or make inquiries on your own, the trial judge has no way to make sure that the information you obtain is proper for the case. The parties likewise have no opportunity to dispute or challenge the accuracy of what you find. Any independent investigation by a juror unfairly and improperly prevents the parties from having that opportunity our judicial system promises.

Between now and when you have been discharged from jury duty by the judge, you must not discuss any information about your jury service with anyone, including friends, co-workers, and family members. You may tell those who need to know where you are that you have been called for jury duty. If you are picked for a jury, you may tell people that you have been picked for a jury and how long the case may take. However, you must not give anyone any information about the case itself or the people involved in the case. You must also warn people not to try to say anything to you or write to you about your jury service or the case. This includes face-to-face, phone or computer communications.

I want to stress that you must not use electronic devices or computers to talk about this case, including tweeting, texting, blogging, e-mailing, posting information on a website or chat room, or any other means at all. Do not send or accept any messages, including e-mail and text messages, about your jury service. You must not disclose your thoughts about your jury service or ask for advice on how to decide any case.

The judge will tell you when you are released from this instruction. Remember, these rules are designed to guarantee a fair trial. It is important that you understand the rules as well as the

impact on our system of justice if you fail to follow them. If it is determined that any one of you has violated this rule, and conducted any type of independent research or investigation, it may result in a mistrial. A mistrial would require the case to be tried again at great expense to the parties and the judicial system. The judge may also impose a penalty upon any juror who violates this instruction. All of us are depending on you to follow these rules, so that there will be a fair and lawful resolution of every case.

Source:

Florida Standard Jury Instruction (Civil) (not numbered)

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 3

201.1 Description of the Case Before Voir Dire

Welcome. [I] [The clerk] will now administer your oath.

Now that you have been sworn, I'd like to give you an idea about what we are here to do.

This is a civil trial. A civil trial is different from a criminal case, where a defendant is charged by the state prosecutor with committing a crime. The subject of a civil trial is a disagreement between people or companies, where the claims of one or more of these parties have been brought to court to be resolved. It is called "a trial of a lawsuit."

This case pertains to whether Jeffrey Epstein had probable cause to initiate in 2009 and continue until 2012 a civil proceeding against Bradley Edwards alleging that Edwards knew or should have known about Scott Rothstein running a Ponzi scheme through his law firm of which Edwards was a partner. Epstein originally sued both Scott Rothstein and Bradley Edwards in one original civil proceeding. Epstein's lawsuit against Scott Rothstein has been separated from this action and exists as a separate proceeding.

Bradley Edwards is an attorney. In August and September 2008, while he was a sole practitioner, Edwards filed three separate lawsuits on behalf of three tort claimants against Epstein for alleged sexual misconduct.

In late March 2009, Edwards joined the law firm of Rothstein Rosenfeldt and Adler ("RRA"). At the time he joined RRA, Edwards held the title of "partner" and he turned over to Scott Rothstein the three clients who had brought claims against Epstein. RRA continued to pursue these clients' claims until the firm imploded in November 2009. Edwards' representation of the three tort claimants continued after the implosion of RRA.

It was publicly disclosed in early November 2009 that Rothstein, the senior partner of RRA, had conducted a fraudulent Ponzi scheme which, in part, had used the fact that sexual abuse claims against Epstein were being prosecuted by RRA to induce investors to buy interests in fictitious, non-existent settlements of sexual abuse claims against Epstein. Rothstein's scheme raised hundreds of millions of dollars and was one of the largest frauds in U.S. history.

In early December 2009, Epstein, through his attorneys, filed a lawsuit against Edwards, Rothstein and one of Edwards' clients. Epstein alleged that while Edwards was a partner at RRA in 2009, the cases Edwards brought against Epstein when Edwards was a sole practitioner in 2008, were being used in 2009 to pursue issues and evidence unrelated to and unnecessary to the claims pled in those cases, and instead were done to benefit and lure investors into Rothstein's Ponzi scheme.

Edwards countersued Epstein for malicious prosecution. The lawsuit for your determination is Edwards' counterclaim. Edwards contends that Epstein filed the lawsuit for the sole purpose of attempting to intimidate him into abandoning or cheaply compromising his clients' claims. Epstein eventually settled the cases with Edwards' three clients.

Epstein voluntarily withdrew his claims against Edwards' client in August 2010. Epstein dismissed his claims against Edwards in August 2012 without prejudice to his right to reassert them at a later time. The only claim pending and for your determination is Edwards' claim against Epstein for malicious prosecution.

The principal witnesses who may testify in this case are *Jeffrey Epstein (via video deposition), Bradley Edwards, Scott Rothstein (via deposition), and Mr. Edwards' clients (L.M., E.W. and Jane Doe)*.

Source:

Florida Standard Jury Instruction (Civil) 201.1

Given	_____
Given as Modified	_____
Denied	_____
Withdrawn	_____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 4

201.2 Introduction of Participants and Their Roles

Who are the people here and what do they do?

Judge/Court: I am the Judge. You may hear people occasionally refer to me as "The Court." That is the formal name for my role. My job is to maintain order and decide how to apply the rules of the law to the trial. I will also explain various rules to you that you will need to know in order to do your job as the jury. It is my job to remain neutral on the issues of this lawsuit.

Parties: A party who files a lawsuit is called the Plaintiff. A party that is sued is called the Defendant. *A party who has been sued (the Defendant) can counter sue the party who brought the lawsuit (the Plaintiff). In this instance, the Defendant is also referred to as a Counter-Plaintiff and the Plaintiff is also referred to as the Counter-Defendant.*

Attorneys: The attorneys have the job of representing their clients. That means they speak for their client here at the trial. They have taken oaths as attorneys to do their best and to follow the rules for their profession.

Plaintiff/Counter-Defendant's Counsel: The attorney on this side of the courtroom, Scott Link, represents Jeffrey Epstein, who is the person who filed the initial proceeding here at the courthouse. His job is to present his client's side of things to you. He and his client will be referred to most of the time as "*the Counter-Defendant.*" Mr. Link, will you please introduce who is sitting at the table with you?

Defendant/Counter-Plaintiff's Counsel: The attorney on this side of the courtroom, Jack Scarola, represents Bradley Edwards, one of the defendants who has been sued and who brought a counterclaim against Mr. Epstein. His job is to present his client's side of things to you. He and his client will usually be referred to here as "*the Counter-Plaintiff.*" Mr. Scarola, will you please introduce who is sitting at the table with you?

Court Clerk: This person sitting in front of me, (name), is the court clerk. [He] [She] is here to assist me with some of the mechanics of the trial process, including the numbering and collection of the exhibits that are introduced in the course of the trial.

Court Reporter: The person sitting at the stenographic machine, (name), is the court reporter. [His] [Her] job is to keep an accurate legal record of everything we say and do during this trial.

Bailiff: The person over there, (name), is the bailiff. [His] [Her] job is to maintain order and security in the courtroom. The bailiff is also my representative to the jury. Anything you need or any problems that come up for you during the course of the trial should be brought to [him] [her]. However, the bailiff cannot answer any of your questions about the case. Only I can do that.

Jury: Last, but not least, is the jury, which we will begin to select in a few moments from among all of you. The jury's job will be to decide what the facts are and what the facts mean.

Jurors should be as neutral as possible at this point and have no fixed opinion about the lawsuit.

In order to have a fair and lawful trial, there are rules that all jurors must follow. A basic rule is that jurors must decide the case only on the evidence presented in the courtroom. You must not communicate with anyone, including friends and family members, about this case, the people and places involved, or your jury service. You must not disclose your thoughts about this case or ask for advice on how to decide this case.

I want to stress that this rule means you must not use electronic devices or computers to communicate about this case, including tweeting, texting, blogging, e-mailing, posting information on a website or chat room, or any other means at all. Do not send or accept any messages to or from anyone about this case or your jury service.

You must not do any research or look up words, names, [maps], or anything else that may have anything to do with this case. This includes reading newspapers, watching television or using a computer, cell phone, the Internet, any electronic device, or any other means at all, to get information related to this case or the people and places involved in this case. This applies whether you are in the courthouse, at home, or anywhere else.

Many of you may have cell phones, tablets, laptops or other electronic devices with you here in the courtroom.**

***The trial judge should select one of the following two alternative instructions explaining the rules governing jurors' use of electronic devices, as explained in Note on Use 1.*

Alternative A: [All cell phones, computers, tablets or other types of electronic devices must be turned off while you are in the courtroom. Turned off means that the phone or other electronic device is actually off and not in a silent or vibrating mode. You may use these devices during recesses, but even then you may not use your cell phone or electronic device to find out any information about the case or communicate with anyone about the case or the people involved in the case. Do not take photographs, video recordings or audio recordings of the proceedings or of your fellow jurors. After each recess, please double check to make sure your cell phone or electronic device is turned off. At the end of the case, while you are deliberating, you must not communicate with anyone outside the jury room. You cannot have in the jury room any cell phones, computers, or other electronic devices. If someone needs to contact you in an emergency, the court can receive messages and deliver them to you without delay. A contact phone number will be provided to you.]

Alternative B: [You cannot have any cell phones, tablets, laptops, or other electronic devices in the courtroom. You may use these devices during recesses, but even then you may not use your cell phone or electronic device to find out any information about the case or communicate with anyone about the case or the people involved in the case. Do not take photographs, video recordings or audio recordings of the proceedings or your fellow jurors. At the end of the case, while you are deliberating, you must not communicate with anyone outside the jury room. If someone needs to contact you in an emergency, the court can receive messages and deliver them to you without delay. A contact phone number will be provided to you.]

What are the reasons for these rules? These rules are imposed because jurors must decide the case without distraction and only on the evidence presented in the courtroom. If you investigate, research, or make inquiries on your own outside of the courtroom, the trial judge has no way to make sure that the information you obtain is proper for the case. The parties likewise have no opportunity to dispute or challenge the accuracy of what you find. That is contrary to our judicial system, which assures every party the right to ask questions about and challenge the evidence being considered against it and to present argument with respect to that evidence. Any independent investigation by a juror unfairly and improperly prevents the parties from having that opportunity our judicial system promises.

Any juror who violates these restrictions jeopardizes the fairness of these proceedings, and a mistrial could result that would require the entire trial process to start over. A mistrial is a tremendous expense and inconvenience to the parties, the court, and the taxpayers. If you violate these rules, you may be held in contempt of court, and face sanctions, such as serving time in jail, paying a fine or both.

All of your communications with courtroom personnel, or me, will be part of the record of these proceedings. That means those communications shall either be made in open court with the court reporter present or, if they are in writing, the writing will be filed with the court clerk. I have instructed the courtroom personnel that any communications you have with them outside of my presence must be reported to me, and I will tell the parties and their attorneys about any communication from you that I believe may be of interest to the parties and their attorneys.

However, you may communicate directly with courtroom personnel about matters concerning your comfort and safety, such as juror parking, location of break areas, how and when to assemble for duty, how you should dress, what personal items can be brought into the courthouse or jury room, and similar inquiries.

If you become aware of any violation of these instructions or any other instruction I give in this case, you must tell me by giving a note to the bailiff.

Source:

Florida Standard Jury Instruction (Civil) 201.2

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 5

201.3 Explanation of the Voir Dire Process

The last thing I want to do, before we begin to select the jury, is to explain to you how the selection process works.

Questions/Challenges: This is the part of the case where the parties and their lawyers have the opportunity to get to know a little bit about you, in order to help them come to their own conclusions about your ability to be fair and impartial, so they can decide who they think should be the jurors in this case.

How we go about that is as follows: First, I'll ask some general questions of you. Then, each of the lawyers will have more specific questions that they will ask of you. After they have asked all of their questions, I will meet with them and they will tell me their choices for jurors. Each side can ask that I exclude a person from serving on a jury if they can give me a reason to believe that he or she might be unable to be fair and impartial. That is what is called a challenge for cause. The lawyers also have a certain number of what are called peremptory challenges, by which they may exclude a person from the jury without giving a reason. By this process of elimination, the remaining persons are selected as the jury. It may take more than one conference among the parties, their attorneys, and me before the final selections are made.

Purpose of Questioning: The questions that you will be asked during this process are not intended to embarrass you or unnecessarily pry into your personal affairs, but it is important that the parties and their attorneys know enough about you to make this important decision. If a question is asked that you would prefer not to answer in front of the whole courtroom, just let me know and you can come up here and give your answer just in front of the attorneys and me. If you have a question of either the attorneys or me, don't hesitate to let me know.

Response to Questioning: There are no right or wrong answers to the questions that will be asked of you. The only thing that I ask is that you answer the questions as frankly and as honestly and as completely as you can. You [will take] [have taken] an oath to answer all questions truthfully and completely and you must do so. Remaining silent when you have information you should disclose is a violation of that oath as well. If a juror violates this oath, it not only may result in having to try the case all over again but also can result in civil and criminal penalties against a juror personally. So, again, it is very important that you be as honest and complete with your answers as you possibly can. If you don't understand the question, please raise your hand and ask for an explanation or clarification.

In sum, this is a process to assist the parties and their attorneys to select a fair and impartial jury. All of the questions they ask you are for this purpose. If, for any reason, you do not think you can be a fair and impartial juror, you must tell us.

Source:

Florida Standard Jury Instruction (Civil) 201.3

Given	_____
Given as Modified	_____
Denied	_____
Withdrawn	_____

NOT A CERTIFIED COPY

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 6

101.2 Oath of Juror After Voir Dire

Do you solemnly swear or affirm that you will well and truly try this case between the Counter-Defendant Jeffrey Epstein, and the Counter-Plaintiff, Bradley Edwards, and a true verdict render according to the law and evidence [so help you God]?

Source:

Florida Standard Jury Instruction (Civil) 101.2

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 7

202.2 Explanation of the Trial Procedure

Now that you have heard the law, I want to let you know what you can expect as the trial proceeds.

Opening Statements: In a few moments, the attorneys will each have a chance to make what are called opening statements. In an opening statement, an attorney is allowed to give you his/her views about what the evidence will be in the trial and what you are likely to see and hear in the testimony.

Evidentiary Phase: After the attorneys' opening statements the *Counter-Plaintiff* will bring his witnesses and evidence to you.

Evidence: Evidence is the information that the law allows you to see or hear in deciding this case. Evidence includes the testimony of the witnesses, documents, and anything else that I instruct you to consider.

Witnesses: A witness is a person who takes an oath to tell the truth and then answers attorneys' questions for the jury. The answering of attorneys' questions by witnesses is called "giving testimony." Testimony means statements that are made when someone has sworn an oath to tell the truth.

The *Counter-Plaintiff*'s lawyer will normally ask a witness the questions first. That is called direct examination. Then the *Counter-Defendant*'s lawyer may ask the same witness additional questions about whatever the witness has testified to. That is called cross-examination. Certain documents or other evidence may also be shown to you during direct or cross-examination. After the *Counter-Plaintiff*'s witnesses have testified, the *Counter-Defendant* will have the opportunity to put witnesses on the stand and go through the same process. Then the *Counter-Plaintiff*'s lawyer gets to do cross-examination. The process is designed to be fair to both sides.

It is important that you remember that testimony comes from witnesses. The attorneys do not give testimony and they are not themselves witnesses.

Objections: Sometimes the attorneys will disagree about the rules for trial procedure when a question is asked of a witness. When that happens, one of the lawyers may make what is called an "objection." The rules for a trial can be complicated, and there are many reasons for attorneys to object. You should simply wait for me to decide how to proceed. If I say that an objection is "sustained," that means the witness may not answer the question. If I say that the objection is "overruled," that means the witness may answer the question.

When there is an objection and I make a decision, you must not assume from that decision that I have any particular opinion other than that the rules for conducting a trial are being correctly followed. If I say a question may not be asked or answered, you must not try to guess what the answer would have been. That is against the rules, too.

Side Bar Conferences: Sometimes I will need to speak to the attorneys about legal elements of the case that are not appropriate for the jury to hear. The attorneys and I will try to have as few of these conferences as possible while you are giving us your valuable time in the courtroom. But, if we do have to have such a conference during testimony, we will try to hold the conference at the side of my desk so that we do not have to take a break and ask you to leave the courtroom.

Recesses: Breaks in an ongoing trial are usually called “recesses.” During a recess you still have your duties as a juror and must follow the rules, even while having coffee, at lunch, or at home.

Instructions Before Closing Arguments: After all the evidence has been presented to you, I will instruct you in the law that you must follow. It is important that you remember these instructions to assist you in evaluating the final attorney presentations, which come next, and, later, during your deliberations, to help you correctly sort through the evidence to reach your decision.

Closing Arguments: The attorneys will then have the opportunity to make their final presentations to you, which are called closing arguments.

Final Instructions: After you have heard the closing arguments, I will instruct you further in the law as well as explain to you the procedures you must follow to decide the case.

Deliberations: After you hear the final jury instructions, you will go to the jury room and discuss and decide the questions I have put on your verdict form. You will have a copy of the jury instructions to use during your discussions. The discussions you have and the decisions you make are usually called “jury deliberations.” Your deliberations are absolutely private and neither I nor anyone else will be with you in the jury room.

Verdict: When you have finished answering the questions, you will give the verdict form to the bailiff, and we will all return to the courtroom where your verdict will be read. When that is completed, you will be released from your assignment as a juror.

What are the rules?

Finally, before we begin the trial, I want to give you just a brief explanation of rules you must follow as the case proceeds.

Keeping an Open Mind: You must pay close attention to the testimony and other evidence as it comes into the trial. However, you must avoid forming any final opinion or telling anyone else your views on the case until you begin your deliberations. This rule requires you to keep an open mind until you have heard all of the evidence and is designed to prevent you from influencing how your fellow jurors think until they have heard all of the evidence and had an opportunity to form their own opinions. The time and place for coming to your final opinions and speaking about them with your fellow jurors is during deliberations in the jury room, after all of the evidence has been presented, closing arguments have been made, and I have instructed you on the law. It is important that you hear all of the facts and that you hear the law and how to apply it before you start deciding anything.

Consider Only the Evidence: It is the things you hear and see in this courtroom that matter in this trial. The law tells us that a juror can consider only the testimony and other evidence that all the other jurors have also heard and seen in the presence of the judge and the lawyers. Doing anything else is wrong and is against the law. That means that you must not do any work or investigation of your own about the case. You must not obtain on your own any information about the case or about anyone involved in the case, from any source whatsoever. This includes reading newspapers, watching television or using a computer, cell phone, the Internet, any electronic device, or any other means at all, to get information related to this case or the people and places involved in this case. This applies whether you are in the courthouse, at home, or anywhere else. You must not visit places mentioned in the trial or use the internet to look at maps or pictures to see any place discussed during trial.

Do not provide any information about this case to anyone, including friends or family members. Do not let anyone, including the closest family members, make comments to you or ask questions about the trial. Jurors must not have discussions of any sort with friends or family members about the case or the people and places involved. So, do not let even the closest family members make comments to you or ask questions about the trial. In this age of electronic communication, I want to stress again that just as you must not talk about this case face-to-face, you must not talk about this case by using an electronic device. You must not use phones, tablets, computers or other electronic devices to communicate. Do not send or accept any messages related to this case or your jury service. Do not discuss this case or ask for advice by any means at all, including posting information on an Internet website, chat room or blog.

No Mid-Trial Discussions: When we are in a recess, do not discuss anything about the trial or the case with each other or with anyone else. If attorneys approach you, don't speak with them. The law says they are to avoid contact with you. If an attorney will not look at you or speak to you, do not be offended or form a conclusion about that behavior. The attorney is not supposed to interact with jurors outside of the courtroom and is only following the rules. The attorney is not being impolite. If an attorney or anyone else does try to speak with you or says something about the case in your presence, please inform the bailiff immediately.

Only the Jury Decides: Only you get to deliberate and answer the verdict questions at the end of the trial. I will not intrude into your deliberations at all. I am required to be neutral. You should not assume that I prefer one decision over another. You should not try to guess what my opinion is about any part of the case. It would be wrong for you to conclude that anything I say or do means that I am for one side or another in the trial. Discussing and deciding the facts is your job alone.

Use of Cell Phones and Electronic Devices in the Courtroom and Jury Room:*

**The trial judge should select one of the following two alternative instructions explaining the rules governing jurors' use of electronic devices, as explained in Note on Use 3.*

Alternative A: [All cell phones or other types of electronic devices must be turned off while you are in the courtroom. Turned off means that the phone or other electronic device is actually off and not in a silent or vibrating mode. You may use these devices during recesses, but even then you may not use your phone or electronic device to find out any information about the case

or communicate with anyone about the case or the people involved in the case. Do not take photographs, video recordings or audio recordings of the proceedings or your fellow jurors. After each recess, please double check to make sure your device is turned off. At the end of the case, while you are deliberating, you must not communicate with anyone outside the jury room. You cannot have in the jury room any cell phones, computers, or other electronic devices. If there are breaks in the deliberations, I may allow you to communicate with your family or friends, but do not communicate about the case or your deliberations. If someone needs to contact you in an emergency, the court can receive messages and deliver them to you without delay. The court's phone number will be provided to you.]

Alternative B: [You cannot have any cell phones, computers, or other electronic devices in the courtroom. You may use these devices during recesses, but even then you may not use your phone or electronic device to find out any information about the case or communicate with anyone about the case or the people involved in the case. Do not take photographs, video recordings or audio recordings of the proceedings or your fellow jurors. At the end of the case, while you are deliberating, you must not communicate with anyone outside the jury room. If there are breaks in the deliberations, I may allow you to communicate with your family or friends, but do not communicate about the case or your deliberations. If someone needs to contact you in an emergency, the court can receive messages and deliver them to you without delay. The court's phone number will be provided to you.]

Source:

Florida Standard Jury Instruction (Civil) 202.2

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 8
202.3 Note-Taking by Jurors

If you would like to take notes during the trial, you may do so. On the other hand, of course, you are not required to take notes if you do not want to. That will be left up to you individually.

You will be provided with a note pad and a pen for use if you wish to take notes. Any notes that you take will be for your personal use. However, you should not take them with you from the courtroom. During recesses, the bailiff will take possession of your notes and will return them to you when we reconvene. After you have completed your deliberations, the bailiff will deliver your notes to me. They will be destroyed. No one will ever read your notes.

If you take notes, do not get so involved in note-taking that you become distracted from the proceedings. Your notes should be used only as aids to your memory.

Whether or not you take notes, you should rely on your memory of the evidence and you should not be unduly influenced by the notes of other jurors. Notes are not entitled to any greater weight than each juror's memory of the evidence.

Source:

Florida Standard Jury Instruction (Civil) 202.3

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 9
202.4 Juror Questions

Questions for the court or courtroom personnel:

During the trial, you may have a question about these proceedings. If so, please write it down and hand it to the bailiff, who will then hand it to me. I will review your question with the parties and their attorneys before responding.

Questions for witnesses:

You also may have a question you think should be asked of a witness. If so, there is a way for you to request that I ask the witness a question. After all the attorneys have completed their questioning of the witness, you should raise your hand if you have a question. I will then give you sufficient time to write the question on a piece of paper, fold it, and give it to the bailiff, who will pass it to me. Do not put your name on the question, show it to anyone or discuss it with anyone.

I will then review the question with the attorneys. Under our law, only certain evidence may be considered by a jury in determining a verdict. You are bound by the same rules of evidence that control the attorneys' questions. If I decide that the question may not be asked under our rules of evidence, I will tell you. Otherwise, I will direct the question to the witness. The attorneys may then ask follow-up questions if they wish. If there are additional questions from jurors, we will follow the same procedure again.

By providing this procedure, I do not mean to suggest that you must or should submit written questions for witnesses. In most cases, the lawyers will have asked the necessary questions.

Source:

Florida Standard Jury Instruction (Civil) 202.4

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 10

301.1 Deposition Testimony, Interrogatories, Stipulated Testimony, Stipulations, and Admissions

a. Deposition or prior testimony:

Members of the jury, the sworn testimony of (name), given before trial, will now be presented. You are to consider and weigh this testimony as you would any other evidence in the case.

b. Interrogatories:

Members of the jury, answers to interrogatories will now be read to you. Interrogatories are written questions that have been presented before trial by one party to another. They are answered under oath. You are to consider and weigh these questions and answers as you would any other evidence in the case.

c. Stipulated testimony:

Members of the jury, the parties have agreed that if (name of witness) were called as a witness, [he] [she] would testify (read or describe the testimony). You are to consider and weigh this testimony as you would any other evidence in the case.

d. Stipulations:

Members of the jury, the parties have agreed to certain facts. You must accept these facts as true. (Read the agreed facts).

SEE THE PARTIES' NEW JOINT PRETRIAL STIPULATION FOR COUNTERCLAIM ONLY

e. Admissions:

1. Applicable to all parties:

Members of the jury, (identify the party or parties that have admitted the facts) [has] [have] admitted certain facts. You must accept these facts as true. (Read the admissions).

2. Applicable to fewer than all parties:

Members of the jury, (identify the party or parties that have admitted the facts) [has] [have] admitted certain facts. You must accept these facts as true in deciding the issues between (identify the affected parties), but these facts should not be used in deciding the issues between (identify the unaffected parties). (Read the admissions).

Source:

Florida Standard Jury Instruction (Civil) 301.1

Given _____

Given as Modified _____

Denied _____

Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 11

**301.2 Instruction When First Item of Documentary, Photographic,
or Physical Evidence is Admitted**

The (describe item of evidence) has now been received in evidence. Witnesses may testify about or refer to this or any other item of evidence during the remainder of the trial. This and all other items received in evidence will be available to you for examination during your deliberations at the end of the trial.

Source:

Florida Standard Jury Instruction (Civil) 301.2

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 12

301.3 Instruction When Evidence is First Published to Jurors

The (describe item of evidence) has been received in evidence. It is being shown to you now to help you understand the testimony of this witness and other witnesses in the case, as well as the evidence as a whole. You may examine (describe item of evidence) briefly now. It will also be available to you for examination during your deliberations at the end of the trial.

NOT A CERTIFIED COPY

Source:

Florida Standard Jury Instruction (Civil) 301.3

Given	_____
Given as Modified	_____
Denied	_____
Withdrawn	_____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 13

301.4 Instruction Regarding Visual or Demonstrative Aids

a. Generally:

This witness will be using (identify demonstrative or visual aid(s)) to assist in explaining or illustrating [his] [her] testimony. The testimony of the witness is evidence; however, [this] [these] (identify demonstrative or visual aid(s)) [is] [are] not to be considered as evidence in the case unless received in evidence, and should not be used as a substitute for evidence. Only items received in evidence will be available to you for consideration during your deliberations.

b. Specially created visual or demonstrative aids based on disputed assumptions:

This witness will be using (identify demonstrative aid(s)) to assist in explaining or illustrating [his] [her] testimony. [This] [These] item[s] [has] [have] been prepared to assist this witness in explaining [his] [her] testimony. [It] [They] may be based on assumptions which you are free to accept or reject. The testimony of the witness is evidence; however, [this] [these] (identify demonstrative or visual aid(s)) [is] [are] not to be considered as evidence in the case unless received in evidence, and should not be used as a substitute for evidence. Only items received in evidence will be available to you for consideration during your deliberations.

Source:

Florida Standard Jury Instruction (Civil) 301.4

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 14

301.5 Evidence Admitted for a Limited Purpose

The (describe item of evidence) has now been received into evidence. It has been admitted only [for the purpose of (describe purpose)] [as to (name party)]. You may consider it only [for that purpose] [as it might affect (name party)]. You may not consider that evidence [for any other purpose] [as to [any other party] [(name other party(s)].

NOT A CERTIFIED COPY

Source:

Florida Standard Jury Instruction (Civil) 301.5

Given	_____
Given as Modified	_____
Denied	_____
Withdrawn	_____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 15

301.10 Instruction Before Recess

We are about to take [our first] [a] recess. Remember that all of the rules I have given you apply even when you are outside the courtroom, such as at recess.

Remember the basic rule: Do not talk to anyone, including your fellow jurors, friends, family or co-workers about anything having to do with this trial, except to speak to court staff. This means no e-mailing, text messaging, tweeting, blogging, or any other form of communication. You cannot do any research about the case or look up any information about the case. Remember to observe during our recess the other rules I gave you. If you become aware of any violation of any of these rules at all, notify court personnel of the violation.

After each recess, please double check to make sure [that your cell phone or other electronic device is turned off completely] [that you do not bring your cell phone or other electronic device into the courtroom or jury room].

Source:

Florida Standard Jury Instruction (Civil) 301.10

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 16

406.1 Introduction

Members of the jury, you have now heard and received all of the evidence in this case. I am now going to tell you about the rules of law that you must use in reaching your verdict. [You will recall at the beginning of the case I told you that if, at the end of the case I decided that different law applies, I would tell you so. These instructions are (slightly) different from what I gave you at the beginning and it is these rules of law that you must now follow.] When I finish telling you about the rules of law, the attorneys will present their final arguments and you will then retire to decide your verdict.

Source:

Florida Standard Jury Instruction (Civil) 301.10

Given	_____
Given as Modified	_____
Denied	_____
Withdrawn	_____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 17

406.2 Summary of Claims

The claims and defenses in this case are as follows:

Plaintiff Jeffrey Epstein, through his attorneys, filed a lawsuit (called the “original civil proceeding”) against Scott Rothstein and Defendant Bradley J. Edwards. Epstein voluntarily dismissed his lawsuit against Edwards before the lawsuit was decided by the Court. Epstein’s dismissal of the lawsuit against Edwards was without prejudice to Epstein’s right to later reassert them. Epstein’s lawsuit against Scott Rothstein has been separated from this action and exists as a separate proceeding. Therefore, those claims are not before you for your determination, but Epstein’s original civil proceeding against Rothstein and Edwards forms the basis of Edwards’ suit against Epstein for malicious prosecution.

Edwards filed a claim for malicious prosecution against Epstein which alleged that Epstein maliciously and without probable cause, filed and continued the original civil proceeding against him, and that this caused Edwards emotional and reputational damage, but not money damages. Epstein denies that claim and also asserts that he is entitled to a verdict in his favor.

Edwards has the burden to prove by the greater weight of the evidence that Epstein caused to be filed or continued the civil proceeding against Edwards maliciously and without probable cause and that Epstein’s lawsuit caused Edwards to suffer damage.

I will now define some of the terms you will use in deciding this case.

Source:

Florida Standard Jury Instruction (Civil) 406.2

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 18

406.3 Greater Weight of the Evidence

“Greater weight of the evidence” means the more persuasive and convincing force and effect of the entire evidence in the case.

Source:

Florida Standard Jury Instruction (Civil) 406.3

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 19

Issues on Claim

I will now instruct you on what Edwards must prove to prevail on his claim for malicious prosecution against Epstein.

The issues you must decide on Edwards' claim against Epstein are whether Epstein maliciously and without probable cause instituted or continued a civil proceeding against Edwards which later terminated in favor of Edwards and, if so, whether that action was a legal cause of damage to Edwards.

Edwards must prove each of these elements in order to prevail on his claim for malicious prosecution against Epstein.

I will now instruct you further on the individual elements of this claim.

Source:

Second Paragraph: Florida Standard Jury Instruction 406.8. This paragraph reflects the Standard Instruction, but the order of the instructions has been changed to instruct the jury on the elements first, then explain the elements to the jury. It is Epstein's position this will allow the jury to better understand why they are being instructed on probable cause, malice, etc.; *Alamo Rent-A-Car Inc. v. Mancusi*, 632 So. 2d 1352 (Fla. 1994); *Rivernider v. Meyer*, 174 So. 3d 602 (Fla. 4th DCA 2015); *Hickman v. Barclay's Int'l Realty, Inc.*, 16 So. 3d 154, 155 (Fla. 4th DCA 2009).

Third Paragraph: *Tatum Bros Real Estate & Investment Co. v. Watson*, 109 So. 623 (Fla. 1926); *Union Oil of Cal. Amsco Division v. Watson*, 468 So. 2d 349, 353 (Fla. 3rd DCA 1985); *Alamo Rent-A-Car, Inc. v. Mancusi*, 632 So. 2d 1352, 1355 (Fla. 1994).

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 20

Probable Cause

Probable cause means that at the time of instituting and then continuing a civil proceeding against another, the facts and circumstances known to Jeffrey Epstein were sufficiently strong to support a reasonable belief that the proceeding against Bradley Edwards was supported by existing facts.

It is Bradley Edwards' burden to prove that Jeffrey Epstein lacked probable cause at every stage of the civil proceeding against Bradley Edwards, from the filing of his suit to the termination of it. You may find that Bradley Edwards failed to show a lack of probable cause even if some of the allegations in the civil proceeding brought by Jeffrey Epstein were ultimately shown to be untrue, or if some of the claims would not have been successful.

The information that Jeffrey Epstein relied on does not have to be information gained first-hand by Jeffrey Epstein, but can be trustworthy information that was provided to Jeffrey Epstein. You may find probable cause existed even if there was no certainty of the outcome of the proceeding.

You cannot base your finding as to probable cause on whether or not you believe that Bradley Edwards has proven that Jeffrey Epstein acted with malice. Likewise, you cannot base your findings as to whether there was a lack of probable cause on evidence that Jeffrey Epstein terminated his civil proceeding against Bradley Edwards.

Source:

First Paragraph: Florida Standard Jury Instruction (Civil) 406.4.

Second Paragraph: *Endacott v. Int'l Hosp., Inc.*, 910 So. 2d 915, 924 (Fla. 3d DCA 2005) (must show lack of probable cause for entire case or claim fails); *May v. Fundament*, 444 So. 2d 1171, 1172-73 (Fla. 4th DCA 1984) (same); *Moity v. Bodin*, 489 So. 2d 474 (La. Ct. App. 1986) (where did not show lack of probable cause for at least several of allegations, then no malicious prosecution).

Third Paragraph: *Gill v. Kostroff*, 82 F. Supp. 2d 1354, 1364 (M.D. Fla. 2000) (does not have to be first-hand information); *Endacott v. International Hospitality, Inc.*, 910 So. 2d 915, 922 (Fla. 3d DCA 2005) ("the defendants need not be certain of the outcome of the underlying proceeding to have probable cause for bringing the counterclaim").

Fourth Paragraph: *Tatum Bros Real Estate & Investment v. Watson*, 109 So. 623 (Fla. 1926) (cannot infer probable cause based on finding of malice); *Central Florida Machinery Co., Inc. v. Williams*, 424 So. 2d 201 (Fla. 2d DCA 1983) ("a bare showing of malice will not, in turn, permit

an inference of a lack of probable cause"); *Applestein v. Preston*, 335 So. 2d 604 (Fla. 3d DCA 1976) ("when want of probable cause was not established, the existence thereof could not be inferred from malice, if malice was proved. Although malice may be inferred from want of probable cause, want of probable cause cannot be inferred from malice"); *Endacott v. Int'l Hosp., Inc.*, 910 So. 2d 915, 924 (Fla. 3d DCA 2005) ("However, termination of an underlying civil proceeding in favor of the present plaintiff is not sufficient evidence that the defendants lacked probable cause").

Given	_____
Given as Modified	_____
Denied	_____
Withdrawn	_____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 21

Malice

One acts maliciously in instituting or continuing a civil proceeding against another if he or she does so for the primary purpose of injuring the other, or recklessly and without regard for whether the proceeding is justified, or for any primary purpose except to bring an offender to justice or to establish what he or she considers to be a meritorious claim. In determining whether Jeffrey Epstein acted maliciously, you may consider all the circumstances at the time of the conduct complained of, including any lack of probable cause to institute or continue the proceeding.

You are not required, however, to find malice because of a lack of probable cause to institute or continue the proceedings and you should not draw an inference of malice from a lack of probable cause if other evidence of the circumstances at the time of the conduct lead to a different conclusion.

Source:

First Paragraph: Florida Standard Jury Instruction 406.5

Second Paragraph: *Colonial Stores, Inc. v. Scarbrough*, 355 So. 2d 1181, 1185 (Fla. 1977) ("It is recognized that malice may be inferred from the absence of probable cause. *Adams v. Whitfield*, 290 So. 2d 49 (Fla. 1974); *Duval Jewelry Co. v. Smith*, 102 Fla. 717, 136 So. 878 (Fla. 1931). However, malice is not legally synonymous with the absence of probable cause. *White v. Miami Home Milk Producers Association*, 143 Fla. 518, 197 So. 125 (1940). The inference of malice from the absence of probable cause is not one of law but merely a presumption of fact which may be rebutted. This is an inference which the jury is not required to draw, and which it should not draw if other facts disclosed by the evidence lead to a different conclusion. See *Tatum Brothers Real Estate & Investment Co. v. Watson*, 92 Fla. 278, 109 So. 623 (1926).

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 22

406.6 Instituting or Continuing a Proceeding

One is regarded as having instituted or continued a civil proceeding against another if the proceeding resulted directly and in natural and continuous sequence from his or her actions, so that it reasonably can be said that, but for his or her actions, the proceeding would not have been instituted or continued.

Source:

Florida Standard Jury Instruction (Civil) 406.6

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 23

406.7 Legal Cause

a. Legal cause generally:

The malicious institution or continuation of a proceeding is a cause of loss, injury or damage if it directly and in natural and continuous sequence produces or contributes substantially to producing such loss, injury or damage, so that it can reasonably be said that, but for the malicious institution or continuation of a proceeding, the loss, injury or damage would not have occurred.

b. Concurring cause:

In order to be regarded as a legal cause of loss, injury or damage the malicious institution or continuation of such a proceeding need not be the only cause. The malicious institution or continuation of a proceeding may be a legal cause of loss, injury or damage even though it operates in combination with the act of another or some other cause if the malicious institution or continuation of a proceeding contributes substantially to producing such loss, injury or damage.

c. Intervening cause:

The malicious institution or continuation of a proceeding may also be a legal cause of loss, injury or damage even though it operates in combination with the act of another or some other cause occurring after the malicious institution or continuation of a proceeding occurs if such other cause was itself reasonably foreseeable and the malicious institution or continuation of a proceeding contributes substantially to producing such loss, injury or damage or the resulting loss, injury or damage was a reasonably foreseeable consequence of the malicious institution or continuation of a proceeding and the malicious institution or continuation of a proceeding contributes substantially to producing it.

Source:

Florida Standard Jury Instruction (Civil) 406.7

Given _____

Given as Modified _____

Denied _____

Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 24

Bona Fide Termination

Bradley Edwards must prove that the termination of Jeffrey Epstein's civil proceeding against him was a bona fide termination in favor of Bradley Edwards.

A termination of a civil proceeding is a bona fide termination of the civil proceeding only if it ended in a manner that demonstrated that the proceeding lacked merit.

You must consider the reasons for the voluntary dismissal by Jeffrey Epstein of his claims against Bradley Edwards, as well as all of the circumstances surrounding the voluntary dismissal of those claims in making this determination.

Source:

Giving an instruction: Florida Standard Jury Instructions (Civil) 406.8, Notes on Use ("If a fact question exists concerning whether the prior proceeding terminated in favor of the claimant, an additional instruction on that issue will be necessary." *See Shidlowsky v. National Car Rental Systems, Inc.*, 344 So. 2d 903 (Fla. 3d DCA 1977); *Freedman v. Crabro Motors, Inc.*, 199 So. 2d 745 (Fla. 3d DCA 1967).

First Paragraph: *Debrincat v. Fischer*, 217 So. 2d 68, 70 (Fla. 2017) (element of malicious prosecution claim); *CA Hansen Corp. v. Wicker Smith et al.*, 565 So. 2d 812, 813 (Fla. 3d DCA 1990) (plaintiff must show either a favorable decision on the merits or a bona fide termination); *Alamo Rent-A-Car, Inc. v. Mancusi*, 632 So. 2d 1352, 1356 (Fla. 1994).

Second Paragraph: *Sharaka v. E&A, Inc.*, 135 So. 3d 428, 432 (Fla. 2d DCA 2014) (*citing Cohen v. Corwin*, 980 So. 2d 1153, 1155 (Fla. 4th DCA 2008)).

Third Paragraph: *Cohen v. Corwin*, 980 So. 2d 1153, 1156 (Fla. 4th DCA 2008) ("whether a voluntary dismissal qualifies as a 'bona fide termination' of the proceedings in the defendant's favor depends upon the reasons and circumstances underlying the dismissal"); *Doss v. Bank of America, N.A.*, 857 So. 2d 991, 995 (Fla. 5th DCA 2003) ("whether a withdrawal or abandonment of a lawsuit constitutes a bona fide termination in favor of a person against whom the suit was brought depends on the total circumstances surrounding the withdrawal or abandonment").

Given _____

Given as Modified _____

Denied _____

Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 25

406.9 Burden of Proof on Claim

If the greater weight of the evidence does not support Bradley Edwards' claim, your verdict should be for Jeffrey Epstein.

However, if the greater weight of the evidence supports Bradley Edwards' claim, then your verdict should be for Bradley Edwards and against Jeffrey Epstein.

Source:

Florida Standard Jury Instruction (Civil) 406.9

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 26

406.12 Malicious Prosecution Damages

If you find for Jeffrey Epstein, you will not consider the matter of damages. But, if you find for Bradley Edwards, you should award Bradley Edwards an amount of money that the greater weight of the evidence shows will fairly and adequately compensate Bradley Edwards for such damage as the greater weight of the evidence shows was caused by the institution or continuation of the proceeding complained of.

Source:

Florida Standard Jury Instructions (Civil) 406.12

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 27

601.1 Weighing the Evidence

In deciding this case, it is your duty as jurors to decide the issues, and only those issues, that I submit for your determination by answering certain questions I ask you to answer on a special form, called a verdict form. You must come to an agreement about what your answers will be. Your agreed-upon answers to my questions are called your jury verdict.

The evidence in this case consists of the sworn testimony of the witnesses, all exhibits received in evidence and all facts that were admitted or agreed to by the parties and any fact of which the court instructs you to accept.

In reaching your verdict, you must think about and weigh the testimony and any documents, photographs, or other material that has been received in evidence. You may also consider any facts that were admitted or agreed to by the lawyers. Your job is to determine what the facts are. You may use reason and common sense to reach conclusions. You may draw reasonable inferences from the evidence. But you should not guess about things that were not covered here. And, you must always apply the law as I have explained it to you.

Source:

Florida Standard Jury Instruction (Civil) 601.1

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 28
601.2 Believability of Witnesses

a. General considerations:

Let me speak briefly about witnesses. In evaluating the believability of any witness and the weight you will give the testimony of any witness, you may properly consider the demeanor of the witness while testifying; the frankness or lack of frankness of the witness; the intelligence of the witness; any interest the witness may have in the outcome of the case; the means and opportunity the witness had to know the facts about which the witness testified; the ability of the witness to remember the matters about which the witness testified; and the reasonableness of the testimony of the witness, considered in the light of all the evidence in the case and in the light of your own experience and common sense.

b. Expert witnesses:

You have heard opinion testimony on certain technical subjects from a person referred to as an expert witness. You may accept such opinion testimony, reject it, or give it the weight you think it deserves, considering the knowledge, skill, experience, training, or education of the witness, the reasons given by the witness for the opinion expressed, and all the other evidence in the case.

Source:

Florida Standard Jury Instruction (Civil) 601.2

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 29
601.5 Concluding Instruction (Before Final Argument)

That is the law you must follow in deciding this case. The attorneys for the parties will now present their final arguments. When they are through, I will have a few final instructions about your deliberations.

Source:

Florida Standard Jury Instruction (Civil) 601.5

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 30

700 Closing Instructions

Members of the jury, you have now heard all the evidence, my instructions on the law that you must apply in reaching your verdict and the closing arguments of the attorneys. You will shortly retire to the jury room to decide this case. Before you do so, I have a few last instructions for you.

During deliberations, jurors must communicate about the case only with one another and only when all jurors are present in the jury room. You will have in the jury room all of the evidence that was received during the trial. In reaching your decision, do not do any research on your own or as a group. Do not use dictionaries, the Internet, or any other reference materials. Do not investigate the case or conduct any experiments. Do not visit or view the scene of any event involved in this case or look at maps or pictures on the Internet. If you happen to pass by the scene, do not stop or investigate. All jurors must see or hear the same evidence at the same time. Do not read, listen to, or watch any news accounts of this trial.

You are not to communicate with any person outside the jury about this case. Until you have reached a verdict, you must not talk about this case in person or through the telephone, writing, or electronic communication, such as a blog, twitter, e-mail, text message, or any other means. Do not contact anyone to assist you, such as a family accountant, doctor, or lawyer. These communications rules apply until I discharge you at the end of the case.

If you become aware of any violation of these instructions or any other instruction I have given in this case, you must tell me by giving a note to the bailiff.

Any notes you have taken during the trial may be taken to the jury room for use during your discussions. Your notes are simply an aid to your own memory, and neither your notes nor those of any other juror are binding or conclusive. Your notes are not a substitute for your own memory or that of other jurors. Instead, your verdict must result from the collective memory and judgment of all jurors based on the evidence and testimony presented during the trial.

At the conclusion of the trial, the bailiff will collect all of your notes and immediately destroy them. No one will ever read your notes.

In reaching your verdict, do not let bias, sympathy, prejudice, public opinion, or any other sentiment for or against any party to influence your decision. Your verdict must be based on the evidence that has been received and the law on which I have instructed you.

Reaching a verdict is exclusively your job. I cannot participate in that decision in any way and you should not guess what I think your verdict should be from something I may have said or done. You should not think that I prefer one verdict over another. Therefore, in reaching your verdict, you should not consider anything that I have said or done, except for my specific instructions to you.

Pay careful attention to all the instructions that I gave you, for that is the law that you must follow. You will have a copy of my instructions with you when you go to the jury room to

deliberate. All the instructions are important, and you must consider all of them together. There are no other laws that apply to this case, and even if you do not agree with these laws, you must use them in reaching your decision in this case.

When you go to the jury room, the first thing you should do is choose a presiding juror to act as a foreperson during your deliberations. The foreperson should see to it that your discussions are orderly and that everyone has a fair chance to be heard.

It is your duty to talk with one another in the jury room and to consider the views of all the jurors. Each of you must decide the case for yourself, but only after you have considered the evidence with the other members of the jury. Feel free to change your mind if you are convinced that your position should be different. You should all try to agree. But do not give up your honest beliefs just because the others think differently. Keep an open mind so that you and your fellow jurors can easily share ideas about the case.

I will give you a verdict form with questions you must answer. I have already instructed you on the law that you are to use in answering these questions. You must follow my instructions and the form carefully. You must consider each question separately. Please answer the questions in the order they appear. After you answer a question, the form tells you what to do next. I will now read the form to you: (read form of verdict)]

You will be given (state number) forms of verdict, which I shall now read to you: (read form of verdict)

If you find for Bradley Edwards, your verdict will be in the following form: (read form of verdict)

If you find for Jeffrey Epstein, your verdict will be in the following form: (read form of verdict)

Your verdict must be unanimous, that is, your verdict must be agreed to by each of you. When you have agreed on your verdict and finished filling out the form, your foreperson must write the date and sign it at the bottom and return the verdict to the bailiff.

If any of you need to communicate with me for any reason, write me a note and give it to the bailiff. In your note, do not disclose any vote or split or the reason for the communication.

You may now retire to decide your verdict.

Source:

Florida Standard Jury Instruction (Civil) 700

Given	_____
Given as Modified	_____
Denied	_____
Withdrawn	_____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 31
[BIFURCATED ISSUE]
503.2 PUNITIVE DAMAGES¹

There is an additional claim in this case that you must decide. If you find for Bradley Edwards and against Jeffrey Epstein, you must decide whether, in addition to compensatory damages, punitive damages are warranted as punishment to Jeffrey Epstein and as a deterrent to others.

Bradley Edwards claims that punitive damages should be awarded against Jeffrey Epstein for his conduct in maliciously prosecuting a civil proceeding against Bradley Edwards. Punitive damages are warranted against Jeffrey Epstein if you find by clear and convincing evidence that Jeffrey Epstein was guilty of intentional misconduct or gross negligence, which was a substantial cause of damage to Bradley Edwards. Under those circumstances you may, in your discretion, award punitive damages against Jeffrey Epstein. If clear and convincing evidence does not show such conduct by Jeffrey Epstein, punitive damages are not warranted against Jeffrey Epstein.

“Intentional misconduct” means that Jeffrey Epstein had actual knowledge of the wrongfulness of the conduct and that there was a high probability that injury or damage to Bradley Edwards and, despite that knowledge, he intentionally pursued that course of conduct, resulting in injury or damage. “Gross negligence” means that Jeffrey Epstein’s conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct.

“Clear and convincing evidence” differs from the “greater weight of the evidence” in that it is more compelling and persuasive. As I have already instructed you, “greater weight of the evidence” means the more persuasive and convincing force and effect of the entire evidence in the case.

If you decide that punitive damages are warranted against Jeffrey Epstein, then we will have a separate proceeding in which to decide the amount of punitive damages, if any, to be assessed as punishment against Jeffrey Epstein and as a deterrent to others. This amount would be in addition to the compensatory damages you have previously awarded. In making this determination, you should consider the following:

- (1) the nature, extent and degree of misconduct and the related circumstances, including the following:
 - (A) whether the wrongful conduct was motivated solely by unreasonable financial gain;
 - (B) whether the unreasonably dangerous nature of the conduct, together with the high likelihood of injury resulting from the conduct, was actually known by Jeffrey Epstein;

¹ Punitive damages have been bifurcated from the main trial, so that this instruction should not be given unless it becomes appropriate.

(C) whether, at the time of damage, Jeffrey Epstein had a specific intent to harm Bradley Edwards and the conduct of Jeffrey Epstein did in fact harm Bradley Edwards, and

(2) the financial resources of Jeffrey Epstein; and

However, you may not award an amount that would financially destroy Jeffrey Epstein.

You may in your discretion decline to assess punitive damages.

NOT A CERTIFIED COPY

Source:

Florida Standard Jury Instruction (Civil) 503.2

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

COUNTER-DEFENDANT'S PROPOSED JURY INSTRUCTION NO. 32

Adverse Inference - Fifth Amendment

An individual is constitutionally protected by the Fifth Amendment to the United States Constitution from being compelled to provide evidence against himself in a criminal proceeding and an adverse inference may not be inferred from the exercise of the Fifth Amendment right to remain silent. However, the prohibition against drawing an adverse inference that applies in a criminal proceeding does not apply in a civil lawsuit.

Therefore, if you find that Jeffrey Epstein invoked his Fifth Amendment privilege when asked relevant questions, then you may, but are not required to, infer that his answers would have incriminated him. You may consider this, together with the other evidence, in determining the issues of this case, but a Judgment against Jeffrey Epstein cannot rest solely on the adverse inference.

Source:

Florida Standard Jury Instruction (Civil) 301.11a; *Baxter v. Palmigiano*, 425 U.S. 308 (1976); *Coquina Investments v. Rothstein*, No. 10-60787-cv, 2012 WL 4479057 (S.D. Fla. Sept. 28, 2012)

Given _____
Given as Modified _____
Denied _____
Withdrawn _____

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND
FOR PALM BEACH COUNTY, FLORIDA

Case No. 50-2009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff/Counter-Defendant,

v.

SCOTT ROTHSTEIN, individually, and
BRADLEY J. EDWARDS, individually,

Defendants/Counter-Plaintiff.

VERDICT FORM

We, the Jury, find:

1. Did Bradley Edwards prove by the greater weight of the evidence that Jeffrey Epstein had **no** probable cause to initiate or continue his original civil proceeding against Bradley Edwards?

YES _____ NO _____

If the Answer to Question 1 is "YES" then proceed to Question 2. If the Answer to Question 1 is "NO," then please date and sign the verdict form and proceed no further.

2. Did Bradley Edwards prove by the greater weight of the evidence that Jeffrey Epstein instituted or continued his original civil proceeding against Edwards maliciously?

YES _____ NO _____

If the Answer to Question 2 is "YES" then proceed to Question 3. If the Answer to Question 2 is "NO," then please date and sign the verdict form and proceed no further.

3. Did Bradley Edwards prove by the greater weight of the evidence that the termination of Jeffrey Epstein's original civil proceeding constituted a bona fide termination of that proceeding in favor of Bradley Edwards?

YES _____

NO _____

If the Answer to Question 3 is "YES" then proceed to Question 4. If the Answer to Question 3 is "NO," then please date and sign the verdict form and proceed no further.

4. Did Bradley Edwards prove by the greater weight of the evidence that Jeffrey Epstein's institution or continuation of his original civil proceeding against Bradley Edwards caused damage to Bradley Edwards?

YES _____

NO _____

If the Answer to Question 4 is "YES" proceed to Question 5. If the Answer to Question 4 is "NO," then please date and sign the verdict form and proceed no further.

5. What amount of damage, if any, did Bradley Edwards prove, by the greater weight of the evidence, that he suffered as a result of Jeffrey Epstein's institution or continuation of his original civil proceeding against Bradley Edwards?

\$ _____

6. Did Bradley Edwards prove that punitive damages are warranted as punishment to Jeffrey Epstein for instituting or continuing his original civil proceeding against Bradley Edwards and as a deterrent to others from filing a civil proceeding without probable cause?

YES _____

NO _____

YOU HAVE REACHED YOUR VERDICT. PLEASE SIGN AND DATE THIS VERDICT FORM

SO SAY WE ALL, this ___ day of December, 2018.

FOREPERSON