IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

INSTRUCTIONS FOR CASES BEFORE JUDGE MARGARET B. SEYMOUR

INSTRUCTIONS FOR PROPOSED JURY CHARGES

All proposed jury instructions are required to be submitted in the following format:

(a) The parties are required to jointly submit one set of instructions. To this end, the parties are required to serve their proposed instructions upon each other in time to confer and submit to the Court one complete set of agreed-upon joint instructions, as well as any disputed supplemental instructions, seven (7) days prior to jury selection. Joint instructions should be e-mailed to filingdocs_ecf_cola@scd.uscourts.gov. Do not electronically file in ECF. Please include the case number in the subject line of the e-mail message.

(b) The Court's preliminary and boilerplate jury instructions are attached. It is not necessary for attorneys to submit proposed instructions as to the matters contained in the attached instructions. If the parties in good faith believe that the standard instructions need to be tailored for the trial of the case, they may submit such modified instructions for the Court's review.

(c) If the parties cannot agree upon one entire set of joint instructions, they are required to submit joint instructions that have been agreed upon (labeled as Joint Request to Charge No. ____), and to submit supplemental instructions that have not been agreed upon (labeled as Plaintiff/s/Defendant's Request to Charge No. ___). Legal authority should be cited in all instructions. Each supplemental instruction should list any party requesting the instructions as well as any party's

objection to the instruction. Along with the notation of the party objecting to or requesting the instruction, the supplemental instruction should cite the legal authority in support of the requested instruction and the specific basis for each objection to the instruction. Objections should specifically and concisely set forth the objectionable material in the proposed instruction. The numbering of supplemental instruction should begin where the agreed-upon joint instructions end. A sample of each type of instruction (agreed-upon and objected-to) is attached for your reference.

(d) If legal authority is cited that is not reported in the Southeastern Reporter or Federal Reporters, copies of cited authority should be attached to the requested instruction.

(e) All instructions should be concise, understandable, and neutral statements of law. Argumentative or formula instructions are improper, will not be given, and should not be submitted.

(f) Failure to comply with any of the above instructions may subject the noncomplying party and/or its attorneys to sanctions.

Margaret B. Seymour
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

John Doe, Plaintiff(s), -vs- Richard Roe, Defendant(s).	)	C/A No. 3:06-12345-MBS JOINT REQUEST TO CHARGE NO._____

The plaintiff's claim in this case is based upon three alternative theories: (1) negligence, (2) strict liability, and (3) breach of warranty. The plaintiff is not required to prove all three of these theories in order for him to recover. Proof of his claim under any one of these theories would enable you to find that he is entitled to a verdict in his favor.

Bragg v. Hi-Ranger, Inc., 462 S.E.2d 321 (S.C. Ct. App. 1995).

Plaintiff agrees: _____

Defendant agrees: _____

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF SOUTH CAROLINA

AIKEN DIVISION

John Doe,	)	C/A No. 1:06-12345-MBS
	)	
Plaintiff(s),	)	
	)	PLAINTIFF'S SUPPLEMENTAL
-vs-	)	REQUEST TO CHARGE NO._____
	)	
	)	
Richard Roe,	)	
	)	
Defendant(s).	)	
	)	

"An employment contract for a definite term...generally continues until the expiration of the stated term, unless a right to terminate the contract sooner is reserved in the contract." 27 Am. Jur. 2d Employment Relationship § 30 (1996). In this case, the term is one year, with automatic renewal terms of one year provided.

Authority: Contract, Par. 10(a). "This Agreement shall be in effect for an initial term of one (1) year from December 9, 1995 through December 8, 1996, and shall be automatically renewed for successive one (1) year terms thereafter, unless either party gives written notice to the other party of its intention to terminate this agreement, such notice to be given no later than ninety (90) days prior to the last day of the then-existing term."

DEFENDANT'S OBJECTIONS:

The last sentence of this instruction should be excised because it seeks to charge the facts of the case, Walker v. New Mexico & S.P.R. Co., 165 U.S. 593 (1897), and is not a complete statement of the contract provision. The contract automatically renews only if neither party gives notice of termination at least 90 days prior to the last day of the contract term.

Plaintiff: _____

Defendant: _____

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

John Doe, Plaintiff(s), -vs- Richard Roe, Defendant(s).	)	C/A No. 5:06-12345-MBS DEFENDANT'S SUPPLEMENTAL REQUEST TO CHARGE NO._____

The parties agree that there was a contract for services between them. The contract provided that "either party may terminate this Agreement immediately in the event of a material breach by either party."

Plaintiff's Objection: First sentence is all right. Second sentence is a partial quote from Paragraph 10(b) of the contract, which needs to be quoted in full.

Plaintiff: _____

Defendant: _____

GENERAL CIVIL JURY INSTRUCTIONS

DUTIES OF JURY TO FIND FACTS AND FOLLOW LAW

Members of the Jury, now that you have heard all the evidence and the arguments of the lawyers, it is my duty to instruct you on the law which applies to this case. These instructions will be in three parts: first, the instructions on general rules that define and control the Jury's duties; second, the instructions that state the rules of law you must apply, i.e. what the Plaintiff must prove to make hie/her case; and third, some rules for your deliberations.

It is your duty to find the facts from all the evidence in the case. To those facts you must apply the las as I give it to you. You must follow the law as I give it to you whether you agree with it or not. You must not be influenced by any personal likes or dislikes, opinions, prejudices or sympathy. That meas that you must decide the case solely on the evidence before you and according to the law. You will recall that you took an oath promising to do so at the beginning of the trial.

In following my instructions, you must follow all of them and not single out some and ignore others; they are all equally important. You must not read into these instructions or into anything I may have said or done any suggestion as to what verdict you should return – that is a matter entirely for you to decide.

BURDEN OF PROOF

At the beginning of the case, I told you that the Plaintiff has the burden of proving his/her case by a preponderance of the evidence. That means the Plaintiff must produce evidence which, when considered in light of all the facts, leads you to believe that what he/she claims is more likely true than not. To put it differently, if you were to put each Plaintiff's and Defendant's evidence on opposite sides of the scales, the Plaintiff would have to make the scales tip slightly on his/her side. If a Plaintiff fails to meet this burden, the verdict must be for the Defendant.

Those of you who have sat on criminal cases will have heard of proof beyond a reasonable doubt. That is a stricter standard, i.e. it requires more proof than a preponderance of

evidence. The reasonable doubt standard does not apply to a civil case and you should hterefore put it out of your mind.

EVIDENCE

The evidence from which you are to decide what the facts are consists of:

(1) the sworn testimony of witnesses, both on direct and cross-examination, regardless of who called the witness;

(2) the exhibits which have been received into evidence; and

(3) any facts to which all the lawyers have agreed or stipulated or that I instruct you to find.

WHAT IS NOT EVIDENCE

Certain things are not evidence and you may not consider them in deciding what the facts are. I will list them for you:

(1) arguments and statements by lawyers are not evidence. The lawyers are not witnesses. What they have said in their opening statements, closing arguments and at other times is intended to help you interpret the evidence. But it is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, your memory of them controls.

(2) questions and objections by the lawyers are not evidence. Attorneys have a duty to their clients to object when they believe a question is improper under the Rules of Evidence. You should not be influenced by the objection or by the Court's ruling on it.

(3) testimony that has been excluded or stricken, or that you have been instructed to disregard, is not evidence and must not be considered. In addition, if testimony or exhibits have been received only for a limited purpose, you must follow the limiting instructions I have given.

(4) anything you may have seen or heard when the court was not in session is not evidence. You are to decide the case solely on the evidence received at the trial.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

There are two kinds of evidence: direct and circumstantial. Direct evidence is direct proof of a fact, such as testimony of any eyewitness. Circumstantial evidence is indirect evidence, that is, proof of a chain of facts from which you could find that another fact exists, even though it has not been proved directly. You are entitled to consider both kinds of evidence. The law permits you to give equal weight to both, but it is for you to decide how much weight to give any evidence.

It is for you to decide whether a fact has been proven by direct or circumstantial evidence. In making that decision, you must consider all the evidence in the light of reason, common sense, and experience.

CREDIBILITY OF WITNESSES

In deciding what the facts are, you must consider all the evidence. In doing this, you must decide which testimony to believe and which testimony not to believe. You may disbelieve all or any part of any witness's testimony. In making that decision, you may take into account a number of factors including the following:

(1) was the witness able to see, or hear, or know the thinkgs about which that witness testified?

(2) how well was the witness able to recall and describe those things?

(3) what was the witness's manner while testifying?

(4) did the witness have an interest in the outcome of this case or any bias or prejudice concerning any party or any matter involved in the case?

(5) how reasonable was the witness's testimony considered in light of all the evidence in the case?

(6) was the witness's testimony contradicted by what that witness had said or done at another time, or by the testimony of other witnesses, or by other evidence?

In deciding whether or not to believe a witness, keep in mind that people sometimes forget things. You need to consider therefore whether a contradiction is an innocent lapse of memory or an intentional falsehood, and that may depend on whether it has to do wiht an important fact or with only a small detail.

These are some of the factors you may consider in deciding whether to believe testimony

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EXPERT TESTIMONY

You have heard testimony from persons described as experts, persons who, by education and experience, have become expert in some field may state their opinion on matters in that field and may also state their reasons for the opinion.

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

DEPOSITION TESTIMONY

During the trial, testimony was presented to you through a deposition. A deposition is the sworn, recorded answers to questions asked a witness in advance of the trial. Under some circumstances, if a witness cannot be present to testify from the witness stand, that witness testimony may be presented, under oath, in the form of a deposition. Deposition testimony in entitled to the same consideration and is to be weighed and otherwise considered by you insofar as possible in the same way as if the witness had ben present and had testified from the witness stand in court.

NOTE-TAKING

Some of you have taken notes during the trial. Remember that the notes are for your own personal use. They are not to be given or read to anyone else and they are not to be used in place of your memory.

I will now instruct you on the rules of law that apply in this case.

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DUTY TO DELIBERATE

Choose a foreperson. As Foreperson, you will preside over the deliberations and speak for the jury here in court.

When you retire to the jury room, you should discuss the case with your fellow jurors to reach agreement if you can do so. Your verdict must be unanimous.

Each of you must decide the case for yourself, but you should do so only after you have considered all the evidence, discussed it fully with the other jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinion if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right.

It is important that you attempt to reach a unanimous verdict but, of course, only if each of you can do so after having made your own conscientious decision. Do not change an honest belief about the weight and effect of the evidence simply to reach a verdict. In other words, do not change your opinion solely for the sake of reaching a unanimous verdict.

RETURN OF VERDICT

After you have reached unanimous agreement on a verdict, your Foreperson will fill in the form that has been given to you, sign and date it and advise the marshal outside your door that you are ready to return to the courtroom.

COMMUNICATING WITH THE COURT

If it becomes necessary during your deliberations to communicate with me, you may send a note through the marshal, signed by your Foreperson or by one or more members of the jury. No member of the jury should ever attempt to communicate with me except by a signed writing; and I will communicate with any members of the jury on anything concerning the case only in writing, or only here in open court. Remember that you are not to tell anyone - including me - how the jury stands, numerically or otherwise, until after you have reached a unanimous verdict or have been discharged.