

MULTIPLE PARTIES AND PLEADINGS--VERDICT FORMS

41.00

MULTIPLE PARTIES AND PLEADINGS

41.01 Two or More Plaintiffs

The rights of the plaintiffs [plaintiffs' names] are separate and distinct. Each is entitled to a fair consideration of his own case and you will decide each plaintiff's case as if it were a separate lawsuit. Each plaintiff's case must be governed by the instructions applicable to that case.

Notes on Use

The use of this instruction avoids the practice of giving separate instructions on behalf of two or more plaintiffs in cases where the same issues and questions of law are applicable to each plaintiff.

Comment

Although *Meng v. Lucash*, 329 Ill.App. 512, 69 N.E.2d 367 (4th Dist.1946) (abstract), held it was not error to give separate burden of proof instructions for each of two plaintiffs, *Triolo v. Frisella*, 3 Ill.App.2d 200, 205; 121 N.E.2d 49, 51 (2d Dist.1954), rejected the use of separate sets of similar instructions for each of four defendants. The court stated that counsel have "a duty to assist the court in settling on a set of instructions which fully and yet concisely state the law as it affects all parties to the case."

41.02 Assess Plaintiffs' Damages Separately

If you find that [both] [two or more] plaintiffs are entitled to recover, you will assess the damages of each separately and return a verdict in a separate amount for each.

Comment

In an action by several plaintiffs each of whom has made a separate claim for damages in a different amount, the jury must be required to return a verdict in a separate amount as to each plaintiff. *Caton v. Flig*, 343 Ill.App. 99, 101; 98 N.E.2d 162, 163 (1st Dist.1951); 735 ILCS 5/2-1201 (1994) (formerly §68(3) of the Civil Practice Act).

41.03 Two or More Defendants

The rights of the defendants [defendants' names] are separate and distinct. Each is entitled to a fair consideration of his own defense and you will decide each defendant's case separately as if it were a separate lawsuit. Each defendant's case must be governed by the instructions applicable to that case.

Notes on Use

The use of this instruction avoids the practice of giving separate iterative instructions on behalf of two or more defendants in cases where the same issues and questions of law are applicable to each defendant.

This instruction should not be used where the relationship between multiple defendants is based solely on vicarious liability. *See* IPI 50.01 et seq.

The defendants' names may be inserted in the instruction if that will make the references clearer.

Comment

A previous version of this instruction, as modified, was approved in *Wanner v. Keenan*, 22 Ill.App.3d 930, 317 N.E.2d 114 (2d Dist.1974).

See Comment to IPI 41.01.

41.05 Counterclaim--Third Party Complaint

In this action a [counterclaim] [third-party complaint] has been filed. As to the issues raised by the [counterclaim] [third-party complaint] and the answer to it, the parties therein named stand in the same relation to one another as do a plaintiff and a defendant. Therefore, the instructions given to you which apply to the plaintiff[s] [plaintiffs' names] and the defendant[s] [defendants' name(s)] apply with the same effect to the [counter-plaintiff [counter-plaintiff's name] and counter-defendant [counter-defendant's name] [third-party plaintiff [third-party plaintiff's name] and third-party defendant [third-party defendant's name], respectively.

Notes on Use

Use of this instruction may not be necessary if other instructions (i.e. issues and burden of proof) and verdict forms using parties' names rather than terms such as "third party plaintiff" are properly drafted.

This instruction is not to be used in indemnity or contribution cases. In those cases, *see* IPI 500.00 and 600.00.