

1 **INST**

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5 JUSTICE COURT
LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

6 THE STATE OF NEVADA,

7 Plaintiff,

8 -vs-

9 JOHN DOE

10 Defendant.

CASE NO: 19M-

DEPT NO:

11
12 INSTRUCTIONS TO THE JURY (INSTRUCTION NO. 1)

13 MEMBERS OF THE JURY:

14 It is now my duty as judge to instruct you in the law that applies to this case. It is your
15 duty as jurors to follow these instructions and to apply the rules of law to the facts as you find
16 them from the evidence.

17 You must not be concerned with the wisdom of any rule of law stated in these
18 instructions. Regardless of any opinion you may have as to what the law ought to be, it would
19 be a violation of your oath to base a verdict upon any other view of the law than that given in
20 the instructions of the Court.

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**THIS FORM WILL
CHANGE EVERY TRIAL-
TO BE PROVIDED BY THE
STATE**

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2 If, in these instructions, any rule, direction or idea is repeated or stated in different ways,
3 no emphasis thereon is intended by me and none may be inferred by you. For that reason, you
4 are not to single out any certain sentence or any individual point or instruction and ignore the
5 others, but you are to consider all the instructions as a whole and regard each in the light of all
6 the others.

7 The order in which the instructions are given has no significance as to their relative
8 importance.

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2 A Complaint is but a formal method of accusing a person of a crime and is not of itself
3 any evidence of his guilt.

4 In this case, it is charged in Complaint that on or about the 19th day of September,
5 2019, the Defendant committed the offense of BATTERY CONSTITUTING DOMESTIC.

6
7 COUNT 1 - BATTERY CONSTITUTING DOMESTIC VIOLENCE

8 did willfully and unlawfully use force or violence against or upon the person of his
9 spouse, former spouse, any other person to whom he is related by blood or marriage, a person
10 with whom he has had or is having a dating relationship, a person with whom he has a child
11 in common, the minor child of any of those persons or his minor child, to wit: JANE DOE, by
12 punching and/or hitting the said JANE DOE about the arm(s) and/or forehead and/or head
13 and/or face and/or kicking her.

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19 It is the duty of the jury to apply the rules of law contained in these instructions to the
20 facts of the case and determine whether or not the Defendant is guilty of the offense charged.
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**THIS INSTRUCTION WILL
CHANGE EVERY TRIAL-
TO BE PROVIDED BY THE
STATE**

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2 To constitute the crime charged, there must exist a union or joint operation of an act
3 forbidden by law and an intent to do the act.

4 The intent with which an act is done is shown by the facts and circumstances
5 surrounding the case.

6 Do not confuse intent with motive. Motive is what prompts a person to act. Intent
7 refers only to the state of mind with which the act is done.

8 Motive is not an element of the crime charged and the State is not required to prove a
9 motive on the part of the Defendant in order to convict. However, you may consider evidence
10 of motive or lack of motive as a circumstance in the case.

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2 The Defendant is presumed innocent until the contrary is proved. This presumption
3 places upon the State the burden of proving beyond a reasonable doubt every element of the
4 crime charged and that the Defendant is the person who committed the offense.

5 A reasonable doubt is one based on reason. It is not mere possible doubt but is such a
6 doubt as would govern or control a person in the more weighty affairs of life. If the minds of
7 the jurors, after the entire comparison and consideration of all the evidence, are in such a
8 condition that they can say they feel an abiding conviction of the truth of the charge, there is
9 not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or
10 speculation.

11 If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict
12 of not guilty.

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2 The evidence which you are to consider in this case consists of the testimony of the
3 witnesses, the exhibits (if any), and any facts admitted or agreed to by counsel.

4 There are two types of evidence; direct and circumstantial. Direct evidence is the
5 testimony of a person who claims to have personal knowledge of the commission of the crime
6 which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a
7 chain of facts and circumstances which tend to show whether the Defendant is guilty or not
8 guilty. The law makes no distinction between the weight to be given either direct or
9 circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial
10 evidence, should be considered by you in arriving at your verdict.

11 Statements, arguments and opinions of counsel are not evidence in the case. However,
12 if the attorneys stipulate to the existence of a fact, you must accept the stipulation as evidence
13 and regard that fact as proved.

14 You must not speculate to be true any insinuations suggested by a question asked a
15 witness. A question is not evidence and may be considered only as it supplies meaning to the
16 answer.

17 You must disregard any evidence to which an objection was sustained by the court and
18 any evidence ordered stricken by the court.

19 Anything you may have seen or heard outside the courtroom is not evidence and must
20 also be disregarded.

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2 The credibility or believability of a witness should be determined by his manner upon
3 the stand, his relationship to the parties, his fears, motives, interests or feelings, his
4 opportunity to have observed the matter to which he testified, the reasonableness of his
5 statements and the strength or weakness of his recollections.

6 If you believe that a witness has lied about any material fact in the case, you may
7 disregard the entire testimony of that witness or any portion of his testimony which is not
8 proved by other evidence.

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Battery is defined as the willful and unlawful use of force or violence upon the person of another. To constitute a battery, the force used by the defendant need not be violent or severe, and need not cause bodily pain or bodily harm. Any slight touching by the defendant upon the person of another suffices, as long as the touching was intentional and unwanted.

The word "willfully" means an act or omission which is done intentionally, deliberately, or designedly, as distinguished from an act or omission done accidentally, inadvertently, or innocently.

If you find the Defendant guilty of Battery, you must also determine whether or not the battery constitutes domestic violence.

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2 Battery Constituting Domestic Violence occurs when a person commits a battery upon
3 the person's spouse or former spouse, any other person to whom the person is related by blood
4 or marriage, any other person with whom the person has had or is having a dating relationship,
5 any other person with whom the person has a child in common, the minor child of any of those
6 persons, the person's minor child or any other person who has been appointed the custodian
7 or legal guardian for the person's minor child.

8 As used in these instructions, "dating relationship" means frequent, intimate
9 associations primarily characterized by the expectation of affectional or sexual involvement.
10 The term does not include a casual relationship or an ordinary association between persons in
11 a business or social context.

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2 During your deliberation, you must not communicate with anyone other than each other
3 in any way regarding the case or its merits- either by phone, email, text, internet, or other
4 means; you must not read, watch, or listen to any news or media accounts or commentary
5 about the case; you must not do any research, such as consulting dictionaries, using the
6 internet, or using reference materials; and you must not make any investigation, test a theory
7 of the case, re-create any aspect of the case, conduct any experiments, or in any other way
8 investigate or learn about the case on your own.

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2 Although you are to consider only the evidence in the case in reaching a verdict, you
3 must bring to the consideration of the evidence your everyday common sense and judgment
4 as reasonable men and women. Thus, you are not limited solely to what you see and hear as
5 the witnesses testify. You may draw reasonable inferences from the evidence which you feel
6 are justified in the light of common experience, keeping in mind that such inferences should
7 not be based on speculation or guess.

8 A verdict may never be influenced by sympathy, prejudice or public opinion. Your
9 decision should be the product of sincere judgment and sound discretion in accordance with
10 these rules of law.

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In your deliberation you may not discuss or consider the subject of punishment, as that is a matter which lies solely with the court. Your duty is confined to the determination of whether the Defendant is guilty or not guilty.

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2 When you retire to consider your verdict, you must select one of your member to act as
3 foreperson who will preside over your deliberation and will be your spokesperson here in
4 court.

5 During your deliberation, you will have all the exhibits which were admitted into
6 evidence (if any), these written instructions and forms of verdict which have been prepared for
7 your convenience.

8 Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it
9 signed and dated by your foreperson and then return with it to this room.

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2 If, during your deliberation, you should desire to be further informed on any point of
3 law or hear again portions of the testimony, you must reduce your request to writing signed
4 by the foreperson. The officer will then return you to court where the information sought
5 will be given you in the presence of, and after notice to, the district attorney and the
6 Defendant and his counsel.

7 Readbacks of testimony are time-consuming and are not encouraged unless you deem
8 it a necessity. Should you require a playback, you must carefully describe the testimony to be
9 played back so that the court recorder can arrange her notes. Remember, the court is not at
10 liberty to supplement the evidence.

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2 Now you will listen to the arguments of counsel who will endeavor to aid you to
3 reach a proper verdict by refreshing in your minds the evidence and by showing the
4 application thereof to the law; but, whatever counsel may say, you will bear in mind that it is
5 your duty to be governed in your deliberation by the evidence as you understand it and
6 remember it to be and by the law as given to you in these instructions, with the sole, fixed
7 and steadfast purpose of doing equal and exact justice between the Defendant and the State
8 of Nevada.

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10 GIVEN: _____
11 JUSTICE OF THE PEACE
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SPECIALS

The State must prove beyond a reasonable doubt that the defendant had a domestic relationship with the named victim in order to be found guilty of the offense of Battery Constituting Domestic Violence.

If you have a reasonable doubt that the defendant had a domestic relationship with the named victim, you must find the defendant not guilty of Battery Constituting Domestic Violence.

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INSTRUCTION NO. _____

The State must prove beyond a reasonable doubt that the defendant committed a battery upon the named victim in order to be found guilty of the offense of Battery Constituting Domestic Violence. If you have a reasonable doubt that the defendant committed a battery upon the named victim, you must find the Defendant not guilty of Battery Constituting Domestic Violence.

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When a person is accused of committing a particular crime and at the same time and by the same conduct may have committed another offense of lesser grade or degree, the latter is with respect to the former, a lesser included offense.

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the offense charged, he may, however, be found guilty of any lesser included offense, if the evidence is sufficient to establish his guilt of such lesser offense beyond a reasonable doubt.

The offense of Battery Constituting Domestic Violence necessarily includes the lesser offense of Battery.

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2 A witness who has special knowledge, skill, experience, training or education in a
3 particular science, profession or occupation is an expert witness. An expert witness may give
4 his opinion as to any matter in which he is skilled.

5 You should consider such expert opinion and weigh the reasons, if any, given for it.
6 You are not bound, however, by such an opinion. Give it the weight to which you deem it
7 entitled, whether that be great or slight, and you may reject it, if, in your judgment, the reasons
8 given for it are unsound.

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2 It is the constitutional right of a defendant in a criminal trial that he may not be
3 compelled to testify. Thus, the decision as to whether he should testify is left to the defendant
4 on the advice and counsel of his attorney. You must not draw any inference of guilt from the
5 fact that he does not testify, nor should this fact be discussed by you or enter into your
6 deliberations in any way.

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INSTRUCTION NO. _____

Each charge and the evidence pertaining to it should be considered separately. The fact that you may find the defendant guilty or not guilty as to one of the offenses charged should not control your verdict as to any other offense charged.

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You heard testimony given in a foreign language. An interpreter provided a translation for you at the time that the testimony was given. You must rely on the translation provided by the interpreter, even if you understand the language spoken by the witness. Do not retranslate any testimony to other jurors.

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INSTRUCTION NO. _____

The fact that a witness had been convicted of a felony, if such be a fact, may be considered by you only for the purposes of determining the credibility of that witness.

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Resistance to the commission of a public offense may be made by the party to prevent an offense against his/her person or family member about to be injured to or to prevent an illegal attempt, by force, to take, or injure any property in his or her possession.

Resistance may be made in aid or defense of a person about to be injured.

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2 It is lawful for a person who has grounds for believing and does believe that bodily
3 injury is being or is about to be inflicted upon himself to protect himself from attack. In
4 doing so, he may use all force and means which such person believes to be reasonable and
5 necessary to prevent injury which appears to be imminent.
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Mere words or gestures by the victim, however abusive or insulting, are no defense to a battery prosecution.

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1 A bare fear of bodily injury is not sufficient to justify use of force. To justify a battery
2 or attempted battery of another in self-defense, the circumstances must be sufficient to excite
3 the fears of a reasonable person placed in a similar situation. The person committing or
4 attempting to commit the battery must act under the influence of those fears alone and not in
5 revenge.
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INSTRUCTION NO. _____

The amount of force used must be reasonable and necessary under the circumstances. The law does not justify the use of a greater degree of force than is reasonably necessary nor does it justify a person who has been acting in self-defense in the infliction of further injuries upon his assailant after there is no longer any apparent danger.

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2 The right of self-defense is not generally available to an original aggressor, that is a
3 person who has sought a quarrel.

4 The original aggressor is only entitled to self-defense if he makes a good faith
5 endeavor to decline any further struggle before committing the intentional battery upon
6 another.

7 Where a person without voluntarily seeking, provoking, inviting or willingly engaging
8 in an act of his own free will is attacked by an assailant, he has the right to stand his ground
9 and need not retreat to defend or resist use of force by another.

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If evidence of self-defense is present, the State must prove beyond a reasonable doubt that the defendant did not act in self-defense. If you find that the State has failed to prove beyond a reasonable doubt that the defendant did not act in self-defense, you must find the defendant not guilty.

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If you are not convinced beyond a reasonable doubt that the defendant used force upon the person of another for the purpose of committing battery, rather than for the purpose of self-defense or to resistance, you must find the defendant not guilty of the charge.

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VERDICT FORM

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4 JUSTICE COURT
5 LAS VEGAS TOWNSHIP
6 CLARK COUNTY, NEVADA

7 THE STATE OF NEVADA,
8 Plaintiff,
9 -vs-
10 JOHN DOE,
11 Defendant.

CASE NO: 19M
DEPT NO:

11 VERDICT

12 We, the jury in the above entitled case, find the Defendant JOHN DOE, as follows:

13 **COUNT 1** – BATTERY CONSTITUTING DOMESTIC VIOLENCE

14
15 *(Please check the appropriate box, select only one)*

- 16 Guilty of Battery Constituting Domestic Violence
17
18 Not Guilty

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23 DATED this ___ day of November, 2019

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FOREPERSON
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**VERDICT FORM WILL
CHANGE EVERY TRIAL-
TO BE PROVIDED BY THE
STATE AND/OR DEFENSE**