**1.05 EVIDENCE**

[You have now heard the opening statements.] We will next proceed to the second part of the trial. This is your opportunity to see and hear the evidence upon which you will decide the case.

Each side will have an opportunity to present evidence. In our system, the plaintiff is entitled to present its evidence first. Then the defendant presents its evidence. Then each party may have an additional opportunity to present rebuttal evidence.

Some of the evidence may be sworn testimony by witnesses. This testimony may be presented in person, telephonically, by videotape, or read to you from a sworn statement. You must evaluate all sworn testimony regardless of how it is presented.

Each side will have an opportunity to question each witness twice. This process is why we call our system an adversarial system. We begin with direct examination, followed by cross-examination, then re-direct and re-cross. The party who calls the witness will start the questioning.

Some of the evidence may be exhibits such as documents, pictures, or objects. The exhibits will be identified for you by number or by letter.

There are three other kinds of evidence that may be presented during the trial. The parties may agree that certain facts are true. This is called a stipulation. There are also certain facts that the law requires you to accept as true. This is called judicial notice. The court will clearly identify stipulations and any facts of which the court takes judicial notice.

Finally, there may be facts that the law requires you to accept as true unless the other party proves that they are not true. These facts are called presumptions. The court will identify any presumptions for you.

I have told you about the sources of evidence. I will now tell you what is not evidence. Nothing the attorneys say is evidence and nothing the court says is evidence. If there are any exceptions to this during the trial, I will clearly identify them for you. Remember you must decide this case based only on the evidence presented here in court.