

DEFENDANT'S PERSONAL INJURY DAMAGES (COUNTERCLAIM)--JURY TO
CONSIDER ONLY MATTERS IN EVIDENCE.

Member of the jury, if you reach this issue, I want to caution you that you are not to mention, discuss or consider in any respect, any matter that is not in evidence in this case or which does not arise as a reasonable inference from the evidence in this case in arriving at the amount of damages you award.¹ This is most important because your consideration of such matters would have to be based on speculation, and might well be inaccurate, and could result in an injustice to one party or the other. Also, for you to consider or speculate on any matter not in evidence or not reasonably inferred from the evidence in arriving at the amount of damages would be a violation of your oath as a juror which binds you to follow the law as given to you by the Court in arriving at your verdict. The appropriate measure of damages in this case has been given to you by the Court as provided by law and you should consider this measure only.

¹If the case presents an unusual likelihood of consideration of matters outside the record, for example, where the jury, after starting its deliberations, asks the court whether insurance should be considered, the trial judge may desire to instruct the jury specifically that they cannot consider that matter: "You must not consider in any way the subject of [insurance] [taxes] [interest] [inflation] [attorney fees] or anything else not in evidence or reasonably inferred from the evidence in this case."

