

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 09-00296-01/06-CR-W-FJG
	)	
<b>JOHN B. ANGELL ET AL.,</b>	)	
	)	
Defendant.	)	

**GOVERNMENT’S REQUESTED JURY INSTRUCTIONS**

COMES NOW the United States of America, by Matt J. Whitworth, United States Attorney, and Jeffrey Valenti and Dan Nelson, Assistant United States Attorneys, all for the Western District of Missouri, and submits its proposed jury instructions pursuant to Rule 30, Federal Rules of Criminal Procedure.

Respectfully submitted,

Matt J. Whitworth  
United States Attorney

By */s/Jeffrey Valenti*

Jeffrey Valenti  
Assistant United States Attorney

Certificate of Service for CM-ECF participants

The undersigned hereby certifies that a copy of the foregoing was delivered on November 18, 2009, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

*/s/Jeffrey Valenti*

Jeffrey Valenti

Assistant United States Attorney

JV/bw

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**INSTRUCTION NO. \_\_\_\_\_**

Ladies and gentlemen: I shall take a few moments now to give you some initial instructions about this case and about your duties as jurors. At the end of the trial I shall give you further instructions. I may also give you instructions during the trial. Unless I specifically tell you otherwise, all such instructions – both those I give you now and those I give you later – are equally binding on you and must be followed.

This is a criminal case, brought against the defendants by the United States Government. The defendants are charged with Conspiracy to Distribute Five Hundred (500) Grams or More of Methamphetamine. This charge is set forth in what is called an indictment which reads as follows:

INDICTMENT

COUNT ONE

That between on or about January 1, 2002, to and including July 31, 2007, said dates being approximate, in the Western District of Missouri and elsewhere, JOHN B. ANGELL, ERIC G. BURKITT, a/k/a “Little Eric,” ROBERT E. STEWART, JAMES M. COX, a/k/a “Liberty Jim,” STEVE W. LARSON, and NICHOLAS E. DONKERSLOOT, defendants herein, did knowingly and intentionally combine, conspire, confederate and agree with each other and others, both known and unknown to the grand jury, to distribute: (1) a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, in an amount of five hundred (500) grams or more; (2) cocaine, a Schedule II controlled substance; and (3) marijuana, a Schedule I controlled substance contrary to the

provisions of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A), all in violation of Title 21, United States Code, Section 846.

## COUNT TWO

That on or about August 31, 2009, in the Western District of Missouri and elsewhere, JOHN B. ANGELL, defendant herein, did knowingly engage in conduct, and attempt to engage in conduct, threatening to cause bodily harm to Michael J. Hensley, with the intent to retaliate against Michael J. Hensley for information provided by him to Detective Steve Cook, a law enforcement officer with the Independence, Missouri Police Department, relating to the commission of Federal Narcotics Offenses pursuant to Title 21, United States Code, Section 841(a)(1) *et seq.* by members of the El Forastero and Galloping Goose Motorcycle Clubs, contrary to the provisions of title 18 United States Code, Sections 1513(b)(2) and (g).

You should understand that an indictment is simply an accusation. It is not evidence of anything. The defendants have pleaded not guilty, and are presumed innocent unless and until proved guilty beyond a reasonable doubt.

It will be your duty to decide from the evidence, whether the defendants are guilty or not guilty of the crimes charged. From the evidence, you will decide what the facts are. You are entitled to consider that evidence in the light of your own observations and experiences in the affairs of life. You may use reason and common sense to draw deductions or conclusions from facts which have been established by the evidence. You will then apply those facts to the law which I give you in these and in my other instructions, and in that way

reach your verdict. You are the sole judges of the facts; but you must follow the law as stated in my instructions, whether you agree with it or not.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, unaffected by anything except the evidence, your common sense, and the law as I give it to you.

You should not take anything I may say or do during the trial as indicating what I think of the evidence or what I think your verdict should be.

Finally, please remember that only these defendants, not anyone else, is on trial here, and that these defendants are on trial only for the crimes charged, not for anything else.

Plaintiff's Instruction No. 1

SOURCE: Eighth Circuit Model Jury Instructions  
No. 1.01 (modified)

**INSTRUCTION NO. \_\_\_\_\_**

I have mentioned the word “evidence.” “Evidence” includes the testimony of witnesses, documents and other things received as exhibits, any facts that have been stipulated – that is, formally agreed to by the parties, and any facts that have been judicially noticed – that is, facts which I say you may, but are not required to, accept as true, even without evidence.

Certain things are not evidence. I shall list those things for you now:

1. Statements, arguments, questions and comments by lawyers representing the parties in the case are not evidence.

2. Objections are not evidence. Lawyers have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustain an objection to a question, you must ignore the question and must not try to guess what the answer might have been.

3. Testimony that I strike from the record, or tell you to disregard, is not evidence and must not be considered.

4. Anything you see or hear about this case outside the courtroom is not evidence, unless I specifically tell you otherwise during the trial.

Furthermore, a particular item of evidence is sometimes received for a limited purpose only. That is, it can be used by you only for one particular purpose, and not for any other purpose. I will tell you when that occurs, and instruct you on the purposes for which the item can and cannot be used.

Finally, some of you may have heard the terms “direct evidence” and “circumstantial evidence.” You are instructed that you should not be concerned with those terms. The law makes no distinction between direct and circumstantial evidence. You should give all evidence the weight and value you believe it is entitled to receive.

Plaintiff’s Instruction No. 2  
SOURCE: Eighth Circuit Model Jury Instructions  
No. 1.03



**INSTRUCTION NO. \_\_\_\_\_**

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

In deciding what testimony of any witness to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with other evidence that you believe.

Plaintiff's Instruction No. 3

SOURCE: Eighth Circuit Model Jury Instructions  
No. 1.05

**INSTRUCTION NO. \_\_\_\_\_**

At the end of the trial you must make your decision based on what you recall of the evidence. You will not have a written transcript to consult, and it may not be practical for the court reporter to read back lengthy testimony. You must pay close attention to the testimony as it is given.

If you wish, however, you may take notes to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to begin deliberations. Finally, do not let note-taking distract you so that you do not hear other answers given by a particular witness.

When you leave at night, your notes will be secured and not read by anyone.

Plaintiff's Instruction No. 4  
SOURCE: Eighth Circuit Model Jury Instructions  
No. 1.06

**INSTRUCTION NO. \_\_\_\_\_**

During the trial it may be necessary for me to talk with the lawyers out of the hearing of the jury, either by having a conference up here at the bench while you are present in the courtroom, or by calling a recess. Please understand that while you are waiting, we are working. The purpose of these conferences is to decide how certain evidence is to be treated under the rules of evidence and to avoid confusion and error. We will, of course, do what we can to keep the number and length of these conferences to a minimum.

Plaintiff's Instruction No. 5

SOURCE: Eighth Circuit Model Jury Instructions

No. 1.07

**INSTRUCTION NO. \_\_\_\_\_**

Finally, to insure fairness, you as jurors must obey the following rules:

First, do not talk among yourselves about this case until the end of the case when you go to the jury room to decide on your verdict.

Second, do not talk with anyone else about this case, inside or outside the courtroom, or about anyone involved with it, until the trial has ended and you have been discharged as jurors.

Third, when you are outside the courtroom do not let anyone tell you anything about the case, or about anyone involved with it until the trial has ended and your verdict has been accepted by me. If someone should try to talk to you about the case during the trial, please report it to me.

Fourth, during the trial you should not speak to any of the parties, lawyers or witnesses involved in this case. You should not even pass the time of day with them. It is important not only that you do justice in this case, but that you also give the appearance of doing justice. If a person from one side of the lawsuit sees you talking to a person from the other side – even if it is simply to pass the time of day – an unwarranted and unnecessary suspicion about your fairness might be aroused. If any lawyer, party or witness does not speak to you when you pass in the hall, ride on the elevator or the like, it is because they are not supposed to talk or visit with you.

Fifth, do not read any newspaper articles about the case or listen to any radio or television reports about the case or about anyone involved with it. In fact, until the trial is

over I suggest that you avoid reading any newspapers or news journals at all, and avoid listening to any TV or radio newscasts at all. I do not know whether there might be any news reports of this case, but if there are you might inadvertently find yourself reading or listening to something before you could do anything about it. If you want, you can have your spouse or a friend clip out any stories and set them aside to give you after the trial is over. I can assure you, however, that by the time you have heard the evidence in this case you will know more about the matter than anyone will learn through the news media.

Sixth, do not do any research or make any investigation about the case on your own.

Seventh, do not make up your mind during the trial about what the verdict should be.

Keep an open mind until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence.

Plaintiff's Instruction No. 6

SOURCE: Eighth Circuit Model Jury Instructions

No. 1.08

**INSTRUCTION NO. \_\_\_\_\_**

The trial will proceed in the following manner:

First, the government attorney will make an opening statement. Next, the defendants' attorneys may, but do not have to, make an opening statement. An opening statement is not evidence but is simply a summary of what an attorney expects the evidence to be.

The government will then present its evidence and counsel for the defendants may cross-examine. Following the government's case, the defendants may, but do not have to, present evidence, testify or call other witnesses. If a defendant calls witnesses, the government counsel may cross-examine them.

After presentation of evidence is completed, the attorneys will make their closing arguments to summarize and interpret the evidence for you. As with opening statements, closing arguments are not evidence. The court will instruct you further on the law. After that you will retire to deliberate on your verdict.

Plaintiff's Instruction No. 7

SOURCE: Eighth Circuit Model Jury Instructions  
No. 1.09 (as modified)

**INSTRUCTION NO. \_\_\_\_\_**

We are about to take a recess and I remind you of the instruction I gave you earlier. During this recess or any other recess, you must not discuss this case with anyone, including your fellow jurors, members of your family, people involved in the trial, or anyone else. If anyone tries to talk to you about the case, please let me know about it immediately. Do not read, watch or listen to any news reports of the trial. Finally, keep an open mind until all the evidence has been received and you have heard the views of your fellow jurors.

I may not repeat these things to you before every recess, but keep them in mind throughout the trial.

Plaintiff's Instruction No. 8  
SOURCE: Eighth Circuit Model Jury Instructions  
No. 2.01

**INSTRUCTION NO. \_\_\_\_\_**

The government and the defendants have stipulated – that is, they have agreed – that certain facts are as counsel have just stated. You should therefore treat those facts as having been proved.

Plaintiff's Instruction No. 9

SOURCE: Eighth Circuit Model Jury Instructions  
No. 2.03



**INSTRUCTION NO. \_\_\_\_\_**

You are about to hear tape recordings of conversations. These conversation were legally recorded, and you may consider the recordings just like any other evidence

Plaintiff's Instruction No. 10  
SOURCE: Eighth Circuit Model Jury Instructions  
No. 2.05 (as modified)

**INSTRUCTION NO. \_\_\_\_\_**

As you have heard, there is a typewritten transcript of the tape recording you are about to hear. That transcript also undertakes to identify the speakers engaged in the conversation.

You are permitted to have the transcript for the limited purpose of helping you follow the conversation as you listen to the tape recording, and also to help you keep track of the speakers. The transcript, however, is not evidence. The tape recording itself is the primary evidence of its own contents.

Differences in meaning between what you hear in the recording and read in the transcript may be caused by such things as the inflection in a speaker's voice. You should, therefore, rely on what you hear rather than what you read when there is a difference.

Plaintiff's Instruction No. 11  
Source: Eighth Circuit Model Jury Instructions  
No. 2.06

**INSTRUCTION NO. \_\_\_\_\_**

You are about to hear that John B. Angell was convicted in 1995 of three counts of Unauthorized Possession of Controlled Substances. You may consider this evidence only if you (unanimously) find it is more likely true than not true. This is a lower standard than proof beyond a reasonable doubt. If you find that this evidence is more likely true than not true, you may consider it to help you decide whether John B. Angell had the knowledge, intent, and/or motive to commit the crime for which he is now on trial. You should give it the weight and value you believe it is entitled to receive. If you find that it is not more likely true than not true, then you shall disregard this evidence.

Remember, even if you find that a particular defendant may have committed similar acts in the past, this is not evidence that he committed such an act in this case. You may not convict a person simply because you believe he may have committed similar acts in the past. The defendants are on trial only for the crime, or crimes charged, and you may consider the evidence of prior acts only on the issue of a particular defendants' knowledge, intent, and/or motive.

Plaintiff's Instruction No. 12

Source: Eighth Circuit Model Jury Instructions  
No. 2.08 (as modified)

**INSTRUCTION NO. \_\_\_\_\_**

You are about to hear evidence that the defendants John B. Angell, Robert E. Stewart, James M. Cox, and Nicholas E. Donkersloot were previously convicted of a crime. You may use that evidence only to help you decide whether to believe their testimony and how much weight to give it. That evidence does not mean that they committed the crime, or crimes charged here, and you must not use that evidence as any proof of the crimes charged in this case.

[That evidence may not be used in any way at all in connection with the other defendants]

Plaintiff's Instruction No. 13

Source: Eighth Circuit Model Jury Instructions  
No. 2.16

**INSTRUCTION NO. \_\_\_\_\_**

You have heard evidence that witnesses Dennis Anthony, Michael Clary, Michael Hensley, Donald Street, and Steven Street have pleaded guilty to a crime which arose out of the same events for which the defendants are on trial here. You must not consider those guilty pleas as any evidence of these defendants' guilt. You may consider that witness's guilty plea only for the purpose of determining how much, if at all, to rely upon the witness's testimony.

Plaintiff's Instruction No. 14

Source: Eighth Circuit Model Jury Instructions  
No. 2.19

**INSTRUCTION NO. \_\_\_\_\_**

Members of the jury, the instructions I gave you at the beginning of the trial and during the trial remain in effect. I now give you some additional instructions.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important. This is true even though some of those I gave you at the beginning of trial are not repeated here.

The instructions I am about to give you now as well as those I gave you earlier are in writing and will be available to you in the jury room. I emphasize, however, that this does not mean they are more important than my earlier instructions. Again, all instructions, whenever given and whether in writing or not, must be followed.

Plaintiff's Instruction No. 15

SOURCE: Eighth Circuit Model Jury Instructions  
No. 3.01

**INSTRUCTION NO. \_\_\_\_\_**

It is your duty to find from the evidence what the facts are. You will then apply the law, as I give it to you, to those facts. You must follow my instructions on the law, even if you thought the law was different or should be different.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, unaffected by anything except the evidence, your common sense, and the law as I give it to you.

Plaintiff's Instruction No. 16

SOURCE: Eighth Circuit Model Jury Instructions  
No. 3.02

**INSTRUCTION NO. \_\_\_\_\_**

I have mentioned the word “evidence.” The “evidence” in this case consists of the testimony of witnesses, the documents and other things received as exhibits, and the facts that have been stipulated – this is, formally agreed to by the parties.

You may use reason and common sense to draw deductions or conclusions from facts which have been established by the evidence in the case.

Certain things are not evidence. I shall list those things again for you now:

1. Statements, arguments, questions and comments by lawyers representing the parties in the case are not evidence.

2. Objections are not evidence. Lawyers have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustained an objection to a question, you must ignore the question and must not try to guess what the answer might have been.

3. Testimony that I struck from the record, or told you to disregard, is not evidence and must not be considered.

4. Anything you saw or heard about this case outside the courtroom is not evidence.

Finally, if you were instructed that some evidence was received for a limited purpose only, you must follow that instruction.

Plaintiff’s Instruction No. 17

SOURCE: Eighth Circuit Model Jury Instructions  
No. 3.03



**INSTRUCTION NO. \_\_\_\_\_**

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe.

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

[You should judge the testimony of the defendant[s] in the same manner as you judge the testimony of any other witness.]

Plaintiff's Instruction No. 18

SOURCE: Eighth Circuit Model Jury Instructions  
No. 3.04

**INSTRUCTION NO. \_\_\_\_\_**

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

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

Plaintiff's Instruction No. 19

SOURCE: Eighth Circuit Model Jury Instructions

No. 4.10

**INSTRUCTION NO. \_\_\_\_**

You have heard evidence that several witnesses have previously been convicted of crimes. You may use that evidence only to help you decide whether to believe each witness and how much weight to give his testimony.

Plaintiff's Instruction No. 20

SOURCE: Eighth Circuit Model Jury Instructions  
No. 2.18

**INSTRUCTION NO. \_\_\_\_**

You have heard evidence that some witnesses have received promises from the Government that their testimony will not be used against them in a criminal case. You have also heard evidence that other witnesses have made plea agreements with the Government. The testimony was received in evidence and may be considered by you. You may give this testimony such weight as you think it deserves. Whether or not this testimony may have been influenced by the Government's promises is for you to determine.

Plaintiff's Instruction No. 21

SOURCE: Eighth Circuit Model Jury Instructions  
No. 4.04

**INSTRUCTION NO. \_\_\_\_**

You have heard evidence that some witnesses for the Government hope to receive a reduced sentence on criminal charges in return for their cooperation with the Government in this case. These witnesses entered into agreements with the Government which provide that in return for their assistance, the Government may recommend a less severe sentence for the crimes with which they are charged. If the prosecutor handling a witness's case believes that the witness provided substantial assistance, that prosecutor can file in the court in which the charges are pending against this witness a motion to reduce his sentence below any applicable statutory minimum. The judge has no power to reduce a sentence for substantial assistance unless the Government, acting through the United States Attorney, files such a motion. If such a motion for reduction of sentence for substantial assistance is filed by the Government, then it is up to the judge to decide whether to reduce the sentence at all, and if so, how much to reduce it.

You may give the testimony of these witnesses such weight as you think it deserves. Whether or not testimony of a witness may have been influenced by his hope of receiving a reduced sentence is for you to decide.

Plaintiff's Instruction No. 22

SOURCE: Eighth Circuit Model Jury Instructions  
No. 4.05A

**INSTRUCTION NO. \_\_\_\_\_**

A reasonable doubt is a doubt based upon reason and common sense, and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

Plaintiff's Instruction No. 23

SOURCE: Eighth Circuit Model Jury Instructions

No. 3.11

**INSTRUCTION NO. \_\_\_\_\_**

You will remember that certain summaries and charts were admitted in evidence. You may use those summaries and charts as evidence, even though the underlying documents and records are not here.

Plaintiff's Instruction No. 24

SOURCE: Eighth Circuit Model Jury Instructions  
No. 4.12

**INSTRUCTION NO. \_\_\_\_\_**

The indictment in this case charges under Count One that each of the defendants committed the crime of conspiring with each other and others, both known and unknown, to distribute: (1) a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, in an amount of five hundred (500) grams or more; (2) cocaine, a Schedule II controlled substance; and (3) marijuana, a Schedule I controlled substance. Under Count Two, the indictment charges that defendant Angell threatened to cause bodily harm to Michael J. Hensley, because Hensley provided information to Detective Steve Cook relating to the commission of Federal Narcotics Offenses by members of the El Forastero and Galloping Goose Motorcycle Clubs. Each defendant has pleaded not guilty.

As I told you at the beginning of the trial, an indictment is simply an accusation. It is not evidence of anything. To the contrary, each defendant is presumed to be innocent. Thus each defendant, even though charged, begins the trial with no evidence against him or her. So the presumption of innocence alone is sufficient to find the defendant not guilty and can be overcome only if the government proves, beyond a reasonable doubt, each essential element of the crime charged.

Keep in mind that you must give separate consideration to the evidence about each individual defendant. Each defendant is entitled to be treated separately, and you must return a separate verdict for each defendant.



[There is no burden upon a defendant to prove that he or she is innocent.]  
[Accordingly, the fact that [a] defendant did not testify must not be considered by you in any way, or even discussed, in arriving at your verdict.]

Plaintiff's Instruction No. 25  
SOURCE: Eighth Circuit Model Jury Instructions  
No. 3.07 (as modified)

**INSTRUCTION NO. \_\_\_\_\_**

The crime of Conspiracy to Distribute Five Hundred (500) Grams or More of Methamphetamine as charged in the indictment, has four essential elements, which are:

*One*, between on or about January 1, 2002, and on or about July 31, 2007, two or more persons reached an agreement or came to an understanding to distribute methamphetamine;

*Two*, a particular defendant voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect;

*Three*, at the time the particular defendant joined in the agreement or understanding he knew the purpose of the agreement or understanding; and

*Four*, the agreement or understanding involved in excess of five hundred (500) grams of a mixture or substance containing a detectable amount of methamphetamine.

If all of these elements have been proved beyond a reasonable doubt as to a particular defendant, then you must find that defendant guilty of the crime of Conspiracy to Distribute Five Hundred (500) Grams or More of Methamphetamine; otherwise you must find that defendant not guilty of this crime.

The quantity of controlled substances involved in the agreement or understanding includes the controlled substances the defendant distributed or agreed to distribute. The quantity also includes the controlled substances fellow conspirators distributed or agreed to distribute, if you find that those distributions or agreements to distribute were a necessary or

natural consequence of the agreement or understanding and were reasonably foreseeable by a defendant.

Plaintiff's Instruction No. 26

SOURCE: Eighth Circuit Model Jury Instructions

No. 6.21.846A.1 (as modified)

No. 5.06A (as modified)

No. 3.09 (as modified)

**INSTRUCTION NO. \_\_\_\_\_**

The government must prove that a defendant reached an agreement or understanding with at least one other person. It makes no difference whether that person is a defendant or named in the indictment. You do not have to find that all of the persons charged were members of the conspiracy in order to find a particular defendant guilty of the conspiracy charge.

The “agreement or understanding” need not be an express or formal agreement or be in writing or cover all the details of how it is to be carried out. Nor is it necessary that the members have directly stated between themselves the details or purpose of the scheme.

You should understand that merely being present at the scene of an event, or merely acting in the same way as others or merely associating with others, does not, standing alone, prove that a person has joined in an agreement or understanding. A person who has no knowledge of a conspiracy but who happens to act in a way which advances some purpose of one, does not thereby become a member.

But a person may join in an agreement or understanding, as required by this element, without knowing all the details of the agreement or understanding, and without knowing who all the other members are. Further, it is not necessary that a person agree to play any particular part in carrying out the agreement or understanding. A person may become a member of a conspiracy even if that person agrees to play only a minor part in the conspiracy, as long as that person has an understanding of the unlawful nature of the plan and voluntarily and intentionally joins in it.

You must decide, after considering all of the evidence, whether the conspiracy alleged in the indictment existed. If you find that the conspiracy did exist, you must also decide whether each particular defendant voluntarily and intentionally joined the conspiracy, either at the time it was first formed, or at some later time while it was still in effect. In making that decision, you must consider only the evidence of each defendant's own actions and statements. You may not consider actions and pretrial statements of others, except to the extent that pretrial statements of others describe something that had been said or done by the particular defendant.

Plaintiff's Instruction No. 27

SOURCE: Eighth Circuit Model Jury Instructions  
No. 5.06B (as modified)

**INSTRUCTION NO. \_\_\_\_\_**

To assist you in determining whether there was an agreement or understanding to distribute methamphetamine, cocaine, and/or marijuana you are advised that the elements of distribution of a controlled substance are:

*One*, that a person intentionally transferred methamphetamine, cocaine, or marijuana to another person; and

*Two*, that at the time of transfer, the person knew that it was methamphetamine, cocaine, or marijuana.

Keep in mind that the indictment charges a conspiracy to distribute methamphetamine, cocaine, and/or marijuana and not that the crime of distributing methamphetamine, cocaine, and/or marijuana was committed.

Plaintiff's Instruction No. 28

SOURCE: Eighth Circuit Model Jury Instructions

No. 5.06C (modified)

No. 6.21.841B (modified)

**INSTRUCTION NO. \_\_\_\_**

The crime of retaliating against a witness, as charged in Count Two of the indictment, has two essential elements, which are:

*One*, the defendant knowingly threatened to cause bodily injury to Michael J. Hensley;  
and

*Two*, the defendant did so with intent to retaliate against Michael J. Hensley because he had provided information to Detective Steve Cook relating to the commission of Federal Narcotics Offenses pursuant to Title 21, United States Code, Section 841(a)(1) *et seq.* by members of the El Forastero and Galloping Goose Motorcycle Clubs.

If all of these elements have been proved beyond a reasonable doubt as to defendant Angell, then you must find that defendant guilty of the crime of Retaliating Against a Witness; otherwise you must find that defendant not guilty of this crime.

Plaintiff's Requested Instruction No. 29  
SOURCE: Eighth Circuit Model Jury Instructions  
No. 6.18.1513 (as modified)

**INSTRUCTION NO. \_\_\_\_**

You may consider acts knowingly done and statements knowingly made by a defendant's co-conspirators during the existence of the conspiracy and in furtherance of it as evidence pertaining to the defendant even though they were done or made in the absence of and without the knowledge of the defendant. This includes acts done or statements made before the defendant had joined the conspiracy, for a person who knowingly, voluntarily, and intentionally joins an existing conspiracy is responsible for all of the conduct of the co-conspirators from the beginning of the conspiracy.

Plaintiff's Instruction No. 30

SOURCE: Eighth Circuit Model Jury Instructions  
No. 5.06I



**INSTRUCTION NO. \_\_\_\_\_**

Intent or knowledge may be proved like anything else. You may consider any statements made and acts done by the defendant, and all the facts and circumstances in evidence which may aid in a determination of defendant's knowledge or intent.

You may, but are not required to, infer that a person intends the natural and probable consequences of acts knowingly done or knowingly omitted.

Plaintiff's Instruction No. 31

SOURCE: Eighth Circuit Model Jury Instructions  
No. 7.05

**INSTRUCTION NO. \_\_\_\_\_**

You will note that the indictment charges that the offenses were committed on or about a specified date or between specified dates. The government does not have to prove that the crimes were committed on that exact date or between those exact dates so long as the government proves it occurred reasonably near the dates stated in the indictment.

Plaintiff's Instruction No. 32

SOURCE: Fifth Circuit Model Jury Instructions  
No. 1.19 (1990) (as modified)

**INSTRUCTION NO. \_\_\_\_\_**

In conducting your deliberations and returning your verdict, there are certain rules you must follow. I shall list those rules for you now.

*First*, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

*Second*, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement if you can do so without violence to individual judgment, because a verdict – whether guilty or not guilty – must be unanimous.

Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors.

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

*Third*, if the defendant is found guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way in deciding whether the government has proved its case beyond a reasonable doubt.

*Fourth*, if you need to communicate with me during your deliberations, you may send a note to me through my clerk, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone – including me – how your votes stand numerically.

*Fifth*, your verdict must be based solely on the evidence and on the law which I have given to you in my instructions. The verdict whether guilty or not guilty must be unanimous. Nothing I have said or done is intended to suggest what your verdict should be – that is entirely for you to decide.

*Finally*, the verdict form is simply the written notice of the decision that you reach in this case. [The form reads: (read form)]. You will take this form to the jury room, and when each of you has agreed on the verdicts, your foreperson will fill in the form, sign and date it, and advise Ms. Enns that you are ready to return to the courtroom.

Plaintiff's Instruction No. 33  
SOURCE: Eighth Circuit Model Jury Instructions  
No. 3.12 (as modified)

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
v.	)	<b>No. 09-00296-01-CR-W-FJG</b>
	)	
<b>JOHN B. ANGELL,</b>	)	
	)	
<b>Defendant.</b>	)	

**VERDICT FORM**

**COUNT ONE**

We, the jury, find the defendant, JOHN B. ANGELL, \_\_\_\_\_  
(Guilty/Not Guilty)  
of Conspiracy to Distribute Five Hundred (500) Grams or more of Methamphetamine as  
charged in Count One of the Indictment.

\_\_\_\_\_  
FOREPERSON OF THE JURY

Date: \_\_\_\_\_  
Kansas City, Missouri

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
v.	)	<b>No. 09-00296-02-CR-W-FJG</b>
	)	
<b>ERIC G. BURKITT,</b>	)	
	)	
<b>Defendant.</b>	)	

**VERDICT FORM**

**COUNT ONE**

We, the jury, find the defendant, ERIC G. BURKITT, \_\_\_\_\_  
(Guilty/Not Guilty)  
of Conspiracy to Distribute Five Hundred (500) Grams or more of Methamphetamine as  
charged in Count One of the Indictment.

\_\_\_\_\_  
FOREPERSON OF THE JURY

Date: \_\_\_\_\_  
Kansas City, Missouri

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
v.	)	<b>No. 09-00296-03-CR-W-FJG</b>
	)	
<b>ROBERT E. STEWART,</b>	)	
	)	
<b>Defendant.</b>	)	

**VERDICT FORM**

**COUNT ONE**

We, the jury, find the defendant, ROBERT E. STEWART, \_\_\_\_\_  
(Guilty/Not Guilty)  
of Conspiracy to Distribute Five Hundred (500) Grams or more of Methamphetamine as  
charged in Count One of the Indictment.

\_\_\_\_\_  
FOREPERSON OF THE JURY

Date: \_\_\_\_\_  
Kansas City, Missouri

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
v.	)	<b>No. 09-00296-04-CR-W-FJG</b>
	)	
<b>JAMES M. COX,</b>	)	
	)	
<b>Defendant.</b>	)	

**VERDICT FORM**

**COUNT ONE**

We, the jury, find the defendant, JAMES M. COX, \_\_\_\_\_  
(Guilty/Not Guilty)  
of Conspiracy to Distribute Five Hundred (500) Grams or more of Methamphetamine as  
charged in Count One of the Indictment.

\_\_\_\_\_  
FOREPERSON OF THE JURY

Date: \_\_\_\_\_  
Kansas City, Missouri



**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
v.	)	<b>No. 09-00296-05-CR-W-FJG</b>
	)	
<b>STEVE W. LARSON,</b>	)	
	)	
<b>Defendant.</b>	)	

**VERDICT FORM**

**COUNT ONE**

We, the jury, find the defendant, STEVE W. LARSON, \_\_\_\_\_  
(Guilty/Not Guilty)  
of Conspiracy to Distribute Five Hundred (500) Grams or more of Methamphetamine as  
charged in Count One of the Indictment.

\_\_\_\_\_  
FOREPERSON OF THE JURY

Date: \_\_\_\_\_  
Kansas City, Missouri

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
v.	)	<b>No. 09-00296-06-CR-W-FJG</b>
	)	
<b>NICHOLAS E. DONKERSLOOT,</b>	)	
	)	
<b>Defendant.</b>	)	

**VERDICT FORM**

**COUNT ONE**

We, the jury, find the defendant, NICHOLAS E. DONKERSLOOT, \_\_\_\_\_  
(Guilty/Not Guilty)  
of Conspiracy to Distribute Five Hundred (500) Grams or more of Methamphetamine as  
charged in Count One of the Indictment.

\_\_\_\_\_  
FOREPERSON OF THE JURY

Date: \_\_\_\_\_  
Kansas City, Missouri

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
v.	)	<b>No. 09-00296-01-CR-W-FJG</b>
	)	
<b>JOHN B. ANGELL,</b>	)	
	)	
<b>Defendant.</b>	)	

**VERDICT FORM**

**COUNT TWO**

We, the jury, find the defendant, JOHN B. ANGELL, \_\_\_\_\_  
(Guilty/Not Guilty)  
of Retaliating Against a Witness, as charged in Count Two of the Indictment.

\_\_\_\_\_  
FOREPERSON OF THE JURY

Date: \_\_\_\_\_  
Kansas City, Missouri