**Liability of Private Actors Under 42 U.S.C. § 1983: Nexus/Joint Action**

[Name of defendant] is not a state official. However, [name of plaintiff] alleges that [name of defendant] acted under color of state law by engaging in joint action with one or more state officials to deprive [name of plaintiff] of a federal right.

To find a joint action in this case, you must find that [name of plaintiff] has proved both of the following by a preponderance of the evidence:

First: [name of defendant] reached an understanding in some manner with [state actor(s)] to do an act that deprived [name of plaintiff] of [describe federal right].

Second: [name of defendant] willfully participated in a joint effort with the state to deprive plaintiff of the right.

[You may find [name of defendant] liable as a state actor if [he/she] conspired with [state actor(s)] to deprive [name of plaintiff] of [his/her] constitutional rights. A conspiracy is an agreement between two or more people to do something illegal.] [You may find [name of defendant] liable as a state actor if [state actor(s)] made an active choice to partner with [name of defendant] in a way that made [name of defendant] essentially the same as the state.] [You may find [name of defendant] liable as a state actor if [name of defendant] intentionally used a civil or criminal procedure without notice to or knowledge of [name of plaintiff] to violate [name of plaintiff]’s constitutional rights.]

As I mentioned, the first thing that [name of plaintiff] must show to prove a

joint action is that [name of defendant] and [state actor(s)] reached an understanding in some manner to do an act that deprived [name of plaintiff] of [describe federal right].

Mere similarity of conduct among various persons, or the fact that they may have associated with each other, or may have discussed some common aims or interests, is not necessarily proof of an understanding. To prove an understanding, [name of plaintiff] need not show direct evidence of an agreement or of an understanding between [himself/herself] and state officials. [Name of plaintiff] need only show, and you need only find, that [the defendant] more likely than not reached an understanding to violate [name of plaintiff]’s [describe federal right] and willfully participated in some action (involving the state) to violate that right.