

IN THE IOWA DISTRICT COURT FOR HENRY COUNTY

RICKY L. SHUFFLER and
DOVIE GAIL SHUFFLER

Cause No. LALA012206

Plaintiffs,

vs.

INSTRUCTIONS TO THE JURY

TIMOTHY B. LIECHTY,

Defendant.

Members of the Jury:

In this case, Plaintiffs Ricky Shuffler and Dovie Shuffler claim the defendant, Timothy Liechty, was operating his vehicle at a speed in excess of the posted limit and failed to avoid a collision with the vehicle driven by Plaintiff Ricky Shuffler.

The defendant, Timothy Liechty, disputes that he was negligent and alleges that the negligence of Plaintiff Ricky Shuffler was the sole cause of the damage to Plaintiffs.

Do not consider this summary as proof of any claim. Decide the facts from the evidence and apply the law, which I will now give you.

100.2

INSTRUCTION NO. 1

My duty is to tell you what the law is. Your duty is to accept and apply this law.

You must consider all of the instructions together because no one instruction includes all of the applicable law.

The order in which I give these instructions is not important.

Your duty is to decide all fact questions.

As you consider the evidence, do not be influenced by any personal sympathy, bias, prejudices or emotions. Because you are making very important decisions in this case, you are to evaluate the evidence carefully and avoid decisions based on generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your reason and common sense, and these instructions. As jurors, your sole duty is to find the truth and do justice.

100.3

INSTRUCTION NO. 2

Whenever a party must prove something, they must do so by the preponderance of the evidence.

Preponderance of the evidence is evidence that is more convincing than opposing evidence. Preponderance of the evidence does not depend upon the number of witnesses testifying on one side or the other.

100.4

INSTRUCTION NO. 3

You shall base your verdict only upon the evidence and these instructions.

Evidence is:

1. Testimony in person.
2. Testimony by deposition.
3. Exhibits received by the Court. You may examine the exhibits closely, but be careful not to alter or destroy them.
4. Stipulations, which are agreements between the attorneys.
5. Any other matter admitted in evidence.

Evidence may be direct or circumstantial. The weight to be given any evidence is for you to decide.

Sometimes, during a trial, references are made to pre-trial statements and reports, witnesses' depositions, or other miscellaneous items. Only those things formally offered and received by the court are available to you during your deliberations. Documents or items read from or referred to which were not offered and received into evidence, are not available to you.

The following are not evidence:

1. Statements, arguments, questions and comments by the lawyers.
2. Objections and rulings on objections.
3. Anything you saw or heard about this case outside the courtroom.
4. Any testimony I may have told you to disregard.

100.5

INSTRUCTION NO. 4

Certain testimony has been read into evidence from a deposition. A deposition is testimony taken under oath before the trial and preserved in writing. Consider that testimony as if it had been given in court.

100.9

INSTRUCTION NO. 5

You will decide the facts from the evidence. Consider the evidence using your observations, common sense and experience. You must try to reconcile any conflicts in the evidence; but, if you cannot, you will accept the evidence you find more believable.

In determining the facts, you may have to decide what testimony you believe. You may believe all, part or none of any witnesses' testimony.

There are many factors which you may consider in deciding what testimony to believe, for example:

1. Whether the testimony is reasonable and consistent with other evidence you believe;
2. The witnesses' appearance, conduct, age, intelligence, memory and knowledge of the facts; and,
3. The witnesses' interest in the trial, their motive, candor, bias and prejudice.

100.12

INSTRUCTION NO. 6

You have heard testimony from persons described as experts. Persons who have become experts in a field because of their education and experience may give their opinion on matters in that field and the reasons for their opinion.

Consider expert testimony just like any other testimony. You may accept it or reject it. You may give it as much weight as you think it deserves, considering the witness' education and experience, the reasons given for the opinion, and all the other evidence in the case.

11.08

INSTRUCTION NO. 7

The term “negligent” or “negligence” as applied to the driver of a motor vehicle means the failure to use that degree of care that a very careful person would use under the same or similar circumstances.

37.01, 17.03

INSTRUCTION NO. 8

In the Verdict Form, you must assess a percentage of fault to Defendant Timothy Liechty, whether or not Plaintiff Ricky Shuffler was partly at fault, if you believe:

First, Defendant Timothy Liechty drove at an excessive speed; and

Second, Defendant Timothy Liechty was thereby negligent; and

Third, such negligence directly caused or directly contributed to cause damage to Plaintiffs Ricky Shuffler and Dovie Shuffler.

37.04

INSTRUCTION NO. 9

In your verdict, you must not assess a percentage of fault to Defendant Timothy Liechty unless you believe Defendant Timothy Liechty drove at an excessive speed.

32.01, 37.02, 17.08

INSTRUCTION NO. 10

In the verdict form, you must assess a percentage of fault to Plaintiff Ricky Shuffler whether or not Defendant Timothy Liechty was partly at fault if you believe:

First, either:

Plaintiff Ricky Shuffler failed to keep a careful lookout, or

Plaintiff Ricky Shuffler failed to yield the right-of-way, and

Second, Plaintiff Ricky Shuffler, in one or more of the respects submitted in the Paragraph First, was thereby negligent, and

Third, such negligence of Plaintiff Ricky Shuffler directly caused or directly contributed to cause any damage Plaintiffs Ricky and Dovie Shuffler may have sustained.

INSTRUCTION NO. 11

Failure to keep a careful lookout as used in these instructions means a driver had the ability to see and the ability, including the time and the means, to avoid the accident and failed to do so.

14.05

INSTRUCTION NO. 12

The phrase “yield the right-of-way” as used in these instructions means a driver is required to yield the right-of-way if the other vehicle is within the intersection or is so close to the intersection that it is an immediate hazard.

37.04, 33.04(5)

INSTRUCTION NO. 13

In your verdict, you must not assess a percentage of fault to Plaintiff Ricky Shuffler unless you believe Plaintiff Ricky Shuffler failed to keep a careful lookout or failed to yield the right-of-way.

31.04

INSTRUCTION NO. 14

If you find in favor of Plaintiff Ricky Shuffler on his claim for personal injuries, assess a percentage of fault to Defendant Timothy Liechty, and if you believe that Plaintiff Dovie Shuffler sustained damage as a direct result of injury to her husband, then in your verdict you must find that Plaintiff Dovie Shuffler did sustain such damage.

37.08

INSTRUCTION NO. 15

If you assess a percentage of fault to Defendant Timothy Liechty, then, disregarding any fault on the part of Plaintiff Ricky Shuffler, you must determine the total amount of Plaintiffs Ricky and Dovie Shuffler's damages on their claims for personal injury. If you further find that Dovie Shuffler did sustain damage as a direct result of injury to her husband, you must determine the total amount of her damages on her claim for damages due to injury to her husband.

Total damages on each claim must be such sum as will fairly and justly compensate the plaintiff on that claim for any such damages you believe that plaintiff sustained and is reasonably certain to sustain in the future as a direct result of the occurrence mentioned in the evidence. You must state separately in your verdict the total amount of each plaintiff's damages on each claim.

In determining the total amount of each plaintiff's damages, you must not reduce such damages by any percentage of fault you may assess to Plaintiff Ricky Shuffler. The judge will compute the recovery of each plaintiff under the law and the percentages of fault you assess.

200.37

INSTRUCTION NO. 16

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Plaintiff Ricky Shuffler is 19 years and Plaintiff Dovie Shuffler is 24 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence about Plaintiff Ricky Shuffler's and Plaintiff Dovie Shuffler's health, habits, occupation, and lifestyle, when deciding issues of future damages.

200.38

INSTRUCTION NO. 17

In arriving at an item of damage you cannot arrive at a figure by taking down the estimate of each juror as to an item of damage, and agreeing in advance that the average of those estimates shall be your item of damage.

100.18

INSTRUCTION NO. 18

Upon retiring, you shall select a foreperson. It will be his or her duty to see discussion is carried on in an orderly fashion, the issues are fully and freely discussed, and each juror is given an opportunity to express his or her views.

Your attitude at the beginning of your deliberations is important. It is not a good idea for you to take a position before thoroughly discussing the case with the other jurors. If you do this, individual pride may become involved and you may later hesitate to change an announced position even if shown it may be incorrect. Remember you are not partisans or advocates, but are judges - judges of the facts. Your sole interest is to find the truth and do justice.

INSTRUCTION NO. 19

Occasionally, jurors have questions during deliberations. I have prepared the Instructions after carefully conferring with the parties and their counsel. I have tried to use language which is generally understandable. Usually, questions about the Instructions can be answered by carefully re-reading them. If, however, you deem it necessary to ask the court a question, please do so in writing. After I receive a question from you, I am required to confer with the parties and their attorneys before responding. This process, of course, takes time. My response to any question will be in writing.

Please do not ask the court attendant any questions about the Instructions.

100.21

INSTRUCTION NO. 20

During the trial, you have been allowed to take notes. You may take these with you to the jury room to use in your deliberations. Remember, these are notes and not evidence. Generally, they reflect the recollection or impressions of the evidence as viewed by the person taking them, and may be inaccurate or incomplete.

Upon reaching a verdict, leave the notes in the jury room and they will be destroyed.

100.23

INSTRUCTION NO. 21

You may not communicate about this case before reaching your verdict. This includes cell phones, and electronic media such as text messages, Facebook, MySpace, LinkedIn, YouTube, Twitter, email, etc.

Do not do any research or make any investigation about this case on your own. Do not visit or view any place discussed in this case, and do not use Internet maps or Google Earth or any other program or device to search for or to view any place discussed in the testimony. Also, do not research any information about this case, the law, or the people involved, including the parties, the witnesses, the lawyers, or the judge. This includes using the Internet to research events or people referenced in the trial.

This case was tried on evidence presented in the courtroom. If you conduct independent research, you will be relying on matters not presented in court. The parties have a right to have this case decided on the evidence they know about and that has been introduced here in court. If you do some research or investigation or experiment that we do not know about, then your verdict may be influenced by inaccurate, incomplete or misleading information that has not been tested by the trial process, including the oath to tell the truth and by cross-examination. All of the parties are entitled to a fair trial, rendered by an impartial jury, and you must conduct yourself so as to maintain the integrity of the trial process. If you decide a case based on information not presented in court, you will have denied the parties a fair trial in accordance with the rules of this state and you will have done an injustice. It is very important that you abide by these rules.

INSTRUCTION NO. 22

I have not by these instructions, by any ruling made, by any act done, or by anything said during the trial intended or attempted to give any opinion as to what the facts are, what the proof is, or what your verdict should be.

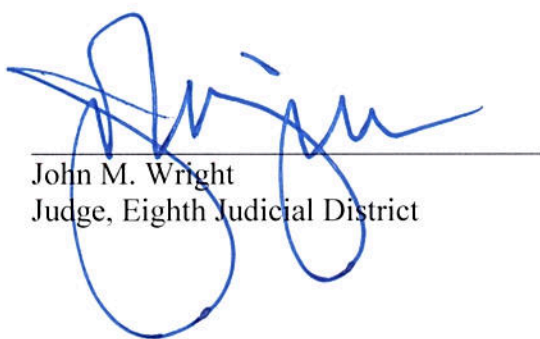
INSTRUCTION NO. 23

I am giving you one verdict form. During the first six hours of deliberations, excluding meals and recesses outside your jury room, your decision must be unanimous. If you all agree upon the verdict, the verdict must be signed by your foreperson.

After deliberating for six hours from 10:55 o'clock a.m., excluding meals or recesses outside your jury room, then all but only one of you need to agree upon the verdict. In that case the verdict must be signed by all jurors who agree.

When you have agreed upon the verdicts and appropriately signed the verdicts, tell the court attendant.

Dated and signed this 22nd day of April, 2021.



John M. Wright
Judge, Eighth Judicial District