

IN THE IOWA DISTRICT COURT FOR HENRY COUNTY

RICKY L. SHUFFER and  
DOVIE GAIL SHUFFLER,

Plaintiffs,

v.

TIMOTHY B. LIECHTY,

Defendant.

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Law No. LALA012206

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**DEFENDANT'S PROPOSED JURY INSTRUCTIONS**

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Defendant Timothy Liechty hereby requests that the Court give the following Iowa Uniform Civil Jury Instructions:

100.2, 100.3, 100.4, 100.5, 100.6, 100.9, 100.11, 100.12, 100.18, 100.21, 100.23

300.1

Defendant also proposes to use the attached instructions based upon the Missouri Approved Instructions 2019, copies of which will be provided to the Court.



Gayla R. Harrison  
HARRISON, MORELAND,  
WEBBER & SIMPLOT, P.C.  
129 West Fourth Street  
P.O. Box 250  
Ottumwa, Iowa 52501  
Telephone: (641)682-8326  
Facsimile: (641)682-8329  
Email: gharrison@hmmw.com

AT0003377

ATTORNEYS FOR DEFENDANT

Original filed.

**100.1 Statement Of The Case.** Members of the Jury: In this case plaintiff Ricky Shuffler and Dovie Shuffler claim operating his vehicle at a speed in excess of the posted limit and failing to avoid a collision with the vehicle driven by Plaintiff Ricky Shuffler.

The defendant Tim 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 Duties Of Judge And Jury, Instructions As Whole.** 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 Burden Of Proof, Preponderance Of Evidence.** 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 Evidence.** You shall base your verdict only upon the evidence and these instructions.

Evidence is:

1. Testimony in person or by deposition.
2. Exhibits received by the court.
3. Stipulations which are agreements between the attorneys.
4. Any other matter admitted (e.g. answers to interrogatories, matters which judicial notice was taken, and etc.).

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. Any testimony I told you to disregard.
4. Anything you saw or heard about this case outside the courtroom.

**100.5 Deposition Testimony.** 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.

**100.6 Interrogatories.** During this trial, you have heard the word 'interrogatory'. An interrogatory is a written question asked by one party of another, who must answer it under oath in writing. Consider interrogatories and the answers to them as if the questions had been asked and answered here in court.

**100.9 Credibility Of Witnesses.** 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.

**100.11 Hypothetical Question, Expert Testimony.** An expert witness was asked to assume certain facts were true and to give an opinion based on that assumption. This is called a

hypothetical question. If any fact assumed in the question has not been proved by the evidence, you should decide if that omission affects the value of the opinion.

**100.12 Opinion Evidence, Expert Witness.** 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.

**100.18 General Instruction To Jury.** Upon retiring you shall select a foreman or forewoman. 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.

**100.21 Cautionary Instruction - Juror's Notes.** 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 Use of Electronic Devices.**

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 will be 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. Failure to follow these instructions may result in the case having to be retried and could result in you being held in contempt and punished.

It is important that we have your full and undivided attention during this trial.

The term “negligent” or “negligence” as used in these instructions means the failure to use the highest degree of care. The phrase “highest degree of care” means that degree of care that a very careful person would use under the same or similar circumstances.

**AUTHORITY:**

Missouri Approved Jury Instructions (Civil) 11.03 (8<sup>th</sup> ed.)

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

**AUTHORITY:**

Missouri Approved Jury Instructions (Civil) 11.08 (8<sup>th</sup> ed.)

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

**AUTHORITY:**

Missouri Approved Jury Instructions (Civil) 14.05 (8<sup>th</sup> ed.)

The driver of a vehicle approaching a yield intersection shall in obedience to the sign slow down to a speed reasonable to the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway. After slowing or stopping the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such traffic is moving across or within the intersection.

Revised Statutes of Missouri 304.351(4)(2)(b)



If you assess a percentage of fault to Defendant 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.

**AUTHORITY:**

Missouri Approved Jury Instructions (Civil) 31.04 (8<sup>th</sup> ed.)

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

First, Defendant Liechty drove at an excessive speed; and

Second, Defendant Liechty was thereby negligent; and

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

**AUTHORITY:**

Missouri Approved Civil Jury Instruction 37.01

Missouri Approved Jury Instructions (Civil) 17.03 (8<sup>th</sup> ed.)

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

**AUTHORITY:**

Missouri Approved Civil Jury Instruction 37.04

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

First, either:

Plaintiff failed to yield the right-of-way or

Plaintiff failed to keep a careful lookout, and

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

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

**AUTHORITY:**

Missouri Approved Jury Instructions (Civil) 32.01, 37.02 (8<sup>th</sup> ed.)

Missouri Approved Jury Instructions (Civil) 17.05 (8<sup>th</sup> ed.)

Missouri Approved Jury Instructions (Civil) 17.08 (8<sup>th</sup> ed.)

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.

**AUTHORITY:**

MAI 37.04, 33.04(5)

If you assess a percentage of fault to Defendant Liechty, then, disregarding any fault on the part on the part of Plaintiff Ricky Shuffler, you must determine the total amount of Plaintiff Ricky Shuffler's damages to be such sum as will fairly and justly compensate Plaintiff Ricky Shuffler for any damages you believe Plaintiff Ricky Shuffler sustained and is reasonably certain to sustain in the future that the collision directly caused or directly contributed to cause. You must state such total amount of Plaintiff's damages in the Verdict Form.

In determining the total amount of Plaintiff Ricky Shuffler's damages, you must not reduce such damages by any percentage of fault you may assess to Plaintiff Ricky Shuffler. The Judge will compute Plaintiff Ricky Shuffler's recovery by reducing the amount you find as Plaintiff Ricky Shuffler's total damages by any percentage of what you assessed to Plaintiff Ricky Shuffler.

**AUTHORITY:**

MAI 37.03

MAI 35.04

If you assess a percentage of fault to Defendant Liechty, then, disregarding any fault on the part on the part of Plaintiff Ricky Shuffler, you must determine the total amount of Plaintiff Dovie Shuffler's damages to be such sum as will fairly and justly compensate Plaintiff Dovie Shuffler for any damages you believe Plaintiff Dovie Shuffler sustained and is reasonably certain to sustain in the future that the collision directly caused or directly contributed to cause. You must state such total amount of Plaintiff Dovie Shuffler's damages in the Verdict Form. In determining the total amount of Plaintiff Dovie Shuffler's damages, you must not reduce such damages by any percentage of fault you may assess to Plaintiff Ricky Shuffler. The Judge will compute Plaintiff Dovie Shuffler's recovery by reducing the amount you find as Plaintiff Dovie Shuffler's total damages by any percentage of what you assessed to Plaintiff Ricky Shuffler.

**AUTHORITY:**

Comparative fault right angle collision suit against driver and his employer-agency in issue-counterclaim for personal injury by an employee.

Missouri Approved Jury Instructions (Civil) 35.04 (8<sup>th</sup> ed.)

**300.1 Return Of Verdict - Forms Of Verdict.** 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, the verdict must be signed by your foreman or forewoman.

After deliberating for six hours from \_\_\_\_\_ o'clock \_\_\_\_\_.m. excluding meals or recesses outside your jury room, then it is necessary that only (seven) (six)\* of you agree upon the verdict. In that case, the verdict must be signed by all (seven) (six)\* jurors who agree.

When you have agreed upon the verdict and appropriately signed it, tell the Court Attendant.

Note: \*Use if a juror has been excused during the trial.



IN THE IOWA DISTRICT COURT FOR HENRY COUNTY

RICKY L. SHUFFER and	)	
DOVIE GAIL SHUFFLER,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Law No. LALA012206
	)	
TIMOTHY B. LIECHTY,	)	
	)	
Defendant.	)	

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VERDICT FORM

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**Note:** Complete the following paragraph by filling in the blanks as required by your verdict. If you assess a percentage of fault to any of those listed below, write in a percentage not greater than 100%, otherwise write in "zero" next to that name. If you assess a percentage of fault to any of those listed below, the total of such percentages must be 100%.

On the claim of Plaintiffs Ricky and Dovie Shuffler for personal injury, we, the undersigned jurors, assess percentages of fault as follows:

Defendant Liechty	_____%	(zero to 100%)
Plaintiff Ricky Shuffler	_____%	(zero to 100%)
Total	_____%	(zero <u>OR</u> 100%)

**Note:** Complete the following paragraph if you assessed a percentage of fault to Defendant Liechty.

We, the undersigned jurors, find the total amount of Plaintiff Ricky Shuffler's damages disregarding any fault on the part of Plaintiff Ricky Shuffler to be \$\_\_\_\_\_ (stating the amount).

**Note:** Complete the following paragraph if you assessed a percentage of fault to Defendant Liechty.

We, the undersigned jurors, find the total amount of Plaintiff Dovie Shuffler's damages disregarding any fault on the part of Plaintiff Ricky Shuffler to be \$\_\_\_\_\_ (stating the amount).

**Note:** The Judge will compute the recovery of each plaintiff under the law and the percentages of fault you assess.

**Note:** All jurors to agree to the above must legibly sign or print their names below.

**AUTHORITY:**

MAI 37.07, 37.09