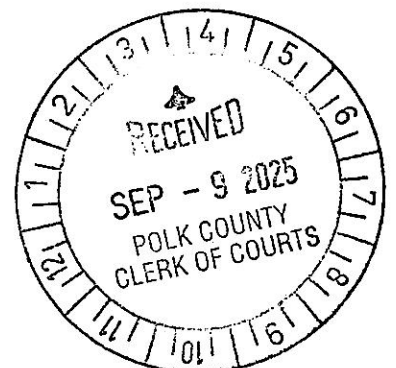


IN THE IOWA DISTRICT COURT FOR POLK COUNTY**DAVID NIFFENEGGER,****Plaintiff,****v.****KEMAL DAUTOVIC and TRANSPORT,
INC.,****Defendants.****Case No. LACL159499****JURY INSTRUCTIONS****STATEMENT OF THE CASE.**

Members of the Jury: Plaintiff David Niffenegger claims that he was injured in an auto accident because of the negligence of Defendant Kemal Dautovic. Mr. Dautovic denies that he was negligent. Mr. Dautovic asserts that Plaintiff David Niffenegger was negligent and that his negligence caused the accident and any injuries suffered as a result.

Mr. Dautovic was driving a vehicle owned by Defendant Contract Transport as part of his employment with Contract Transport. Any negligence of Mr. Dautovic will be imputed to Contract Transport.

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.



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. It is common to have hidden or implicit thoughts that help us form our opinions. You are making very important decisions in this case. You must evaluate the evidence carefully. You must avoid decisions based on things such as generalizations, gut feelings, prejudices, fears, sympathies, stereotypes, or inward or outward biases. The law demands that you return a jury verdict, based solely on the evidence, your reason and common sense, and these instructions.

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.

INSTRUCTION NO. 3

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 as 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, 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.

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 or by video. Consider that testimony as if it had been given in court.

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 witness's 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 witness's appearance, conduct, age, intelligence, memory, and knowledge of the facts; and
3. The witness's interest in the trial, their motive, candor, bias, and prejudice.

INSTRUCTION NO. 6

You have heard evidence claiming Plaintiff and/or Defendant made statements before this trial while under oath and while not under oath.

If you find such statement was made, you may regard the statement as evidence in this case.

If you find such a statement was made and was inconsistent with Plaintiff and/or Defendant's testimony during the trial you may also use the statement as a basis for disregarding all or any part of that person's testimony during the trial but you are not required to do so. You should not disregard the person's testimony during the trial if other credible evidence supports it or if you believe it for any other reason.

INSTRUCTION NO. 7

"Negligence" means failure to use ordinary care. Ordinary care is the care which a reasonably careful person would use under similar circumstances. "Negligence" is doing something a reasonably careful person would not do under similar circumstances, or failing to do something a reasonably careful person would do under similar circumstances.

INSTRUCTION NO. 8

In these instructions I will be using the term "fault". Fault means one or more acts or omissions towards the person of the actor or of another which constitutes negligence.

INSTRUCTION NO. 9

Damages may be the fault of more than one person. In comparing fault, you should consider all of the surrounding circumstances as shown by the evidence, together with the conduct of Plaintiff David Niffenegger, Defendant Kemal Dautovic, and the extent of the causal relation between their conduct and the damages claimed. You should then determine what percentage, if any, each person's fault contributed to the damages.

INSTRUCTION NO. 10

After you have compared the conduct of all parties, if you find Plaintiff David Niffenegger was at fault and his fault was more than 50% of the total fault, Plaintiff cannot recover damages.

However, if you find Plaintiff's fault was 50% or less of the total fault, then I will reduce the total damages by the percentage of Plaintiff's fault.

INSTRUCTION NO. 11

Plaintiff David Niffenegger claims that Defendant Kemal Dautovic was at fault in one or more of the following particulars:

- a. Failure to use a turn signal; or
- b. Failure to exercise ordinary care.

These grounds of fault are explained in other instructions.

Plaintiff must prove all of the following propositions to prove his claim:

1. Mr. Dautovic was fault in at least one of the two ways set forth above.
2. Mr. Dautovic's fault was a cause of the plaintiffs' damages.
3. The amount of damages.

JS Plaintiff has failed to prove any of these propositions, Plaintiff is not entitled to damages. If Plaintiff has proved all of these propositions, you will consider the defense of comparative fault as explained in Instruction No. 12.

INSTRUCTION NO. 12

Defendants claim that Plaintiff David Niffenegger was at fault in one or more of the following particulars:

- a. Failing to yield the right-of-way to a vehicle turning right;
- b. Failure to maintain a proper lookout; or
- c. Failure to exercise ordinary care.

These grounds of fault are explained in other instructions.

The defendant must prove both of the following propositions to prove its defense:

1. Mr. Niffenegger was at fault in at least one of the three ways set forth above.
2. Mr. Niffenegger's fault was a cause of his damage.

If Defendants have failed to prove either of these propositions, Defendants have not proved their defense. If Defendants have proved both of these propositions, then you will assign a percentage of fault against Plaintiff and include Plaintiff's fault in the total percentage of fault found by you answering the specific verdicts.

INSTRUCTION NO. 13

A driver shall not turn a vehicle from a direct course on a road unless the movement can be made with reasonable safety and after giving an appropriate signal if any other vehicle may be affected by the movement. The signal to turn right must be continuously given during at least the last 300 feet travelled by the vehicle before turning.

A violation of this law is negligence.

INSTRUCION NO. 14

The driver of a vehicle may overtake and, allowing sufficient clearance, pass another vehicle going in the same direction, either on the left or on the right on a road with unobstructed pavement of sufficient width for four or more lanes of moving traffic when the movement can be made in safety. No person shall drive off the pavement or upon the shoulder of the road in overtaking or passing on the right.

A violation of this law is negligence.

INSTRUCTION NO. 15

"Proper lookout" is the lookout a reasonable person would keep in the same or similar situation. It means more than looking and seeing. It includes being aware of the operation of the driver's vehicle in relation to what the driver saw or should have seen.

A violation of this duty is negligence.

INSTRUCTION NO. 16

The conduct of a party is a "cause" of damage when the damage would not have happened except for the conduct. There can be more than one cause of an injury or damage.

INSTRUCTION NO. 17

The mere fact an accident occurred or a party was injured does not mean a party was negligent or at fault.

INSTRUCTION NO. 18

During trial, there was a mention of insurance. You must not consider whether any of the parties to this case had insurance or the type of insurance or whether it would apply to any part of this case. The presence or absence of insurance is totally irrelevant. You must decide this case based only on the law and evidence.

INSTRUCTION NO. 19

If you find Plaintiff is entitled to recover damages, you shall consider the following items:

1. **Past Medical Expenses.** This is the reasonable cost of necessary doctor charges, other medical services, and prescriptions from the date of injury to the present time. In determining the reasonable cost of necessary doctor charges, other medical services, and prescriptions, you may consider the amount charged, the amount actually paid, or any other evidence of what is reasonable and proper for such medical expenses.
2. **Loss of Full Body - Past.** This is the loss of function of the body from the date of injury to the present time. Loss of body is the inability of a particular part of the body to function in a normal manner.
3. **Physical and Mental Pain and Suffering - Past.** This is the physical and mental pain and suffering from the date of injury to the present time. Physical pain and suffering may include, but is not limited to, bodily suffering or discomfort. Mental pain and suffering may include, but is not limited to, mental anguish or loss of enjoyment of life.

The amount you assess for physical and mental pain and suffering and the loss of function of the mind and body cannot be measured by any exact or mathematical standard. You must use your sound judgment based upon an impartial consideration of the evidence. Your judgment must not be exercised arbitrarily, or out of sympathy or prejudice, for or against the parties. The amount you assess for any item of damage must not exceed the amount caused by a party as proved by the evidence.

A party cannot recover duplicate damages. Do not allow amounts awarded under one item of damage to be included in any amount awarded under another item of damage.

The amounts, if any, you find for each of the above items will be used to answer the special verdicts.

INSTRUCTION NO. 20

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.

INSTRUCTION NO. 21

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. 22

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.

INSTRUCTION NO. 23

Occasionally, after a jury retires to the jury room, the members have questions. I have prepared the instructions after carefully considering this case with the parties and lawyers. I have tried to use language which is generally understandable. Usually questions about instructions can be answered by carefully re-reading them. If, however, any of you feel it necessary to ask a question, you must do so in writing and deliver the question (with the date and time) to the judicial specialist. I cannot communicate with you without first discussing your question and potential answer with the parties and lawyers. This process naturally takes time and deliberation before I can reply. The foreperson shall read my responses to the jury. Keep the written question and response and return it to the court with the verdict.

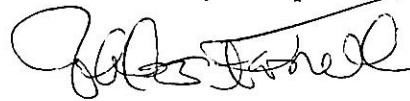
INSTRUCTION NO. 24

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 form must be signed by the head juror.

After deliberating for six hours from 3:00 o'clock P.m. excluding meals or recesses outside your jury room, then it is necessary that only seven of you agree upon the answers to the questions. In that case, the verdict form must be signed by all seven jurors who agree.

When you have agreed upon the verdict and appropriately signed it, tell the judicial specialist.

Dated this 8th day of September, 2025.



Jeffrey D. Farrell
Judge, Fifth Judicial District of Iowa