

Original

IN THE IOWA DISTRICT COURT IN AND FOR LINN COUNTY FILED

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RENISE PHILIPPE,

Plaintiff,

Vs.

CALVIN HOFER AND B. VELKY
LOG HAULING, INC.,

Defendant.

LAW NO. LACV104678 LINN COUNTY, IOWA

JURY INSTRUCTIONS

Instruction No. 1

This case arises out of a motor vehicle accident that occurred on February 15, 2023 in rural Tama County. The accident took place on Highway 30. The accident involved a car where Plaintiff Renise Philippe was a backseat passenger in a vehicle driven by an individual named Fresner Aurelien and a semi-truck and trailer owned by B. Velky Log Hauling, Inc. and driven by Calvin Hofer. There was a claim against Fresner Aurelien. The claim against Fresner Aurelien was settled. Pursuant to Iowa law, Fresner Aurelien is now identified as a “released party, which will be explained to you in other instructions.

The Plaintiff Renise Philippe alleges that Hofer was negligent in the operation of his vehicle. The Plaintiff further alleges that her claimed damages were legally caused by Hofer’s negligence.

Defendants Calvin Hofer and B. Velky Lot³ Hauling, Inc. deny that Hofer was negligent in the operation of his vehicle and further deny that he legally caused the damages, if any, alleged by Plaintiff Renise Philippe. C2B

Defendants Calvin Hofer and B. Velky Lot³ Hauling, Inc. further allege that Fresner Aurelien, a released party, was comparatively negligent and legally caused the damages claimed by the Plaintiff. C2B

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

Instruction No. 2

My duty is to instruct you on the law. Your duty is to accept and apply this law to the facts as you find them. Consider all instructions together. Do not be influenced by sympathy, bias, prejudice, or emotion. Return a just verdict based solely on the evidence and these instructions.

Instruction No. 3

I ruled on objections during trial. Do not speculate about excluded evidence. Consider only the evidence admitted. Do not infer anything from the objections or the rulings on objections.

Instruction No. 4

A party who must prove something must do so by a preponderance of the evidence—
evidence that is more convincing and trustworthy than the opposing evidence.

Instruction No. 5

You judge the credibility of each witness and the weight to give their testimony. Consider whether testimony is reasonable and consistent; the witness's appearance, memory, knowledge; and any interest, motive, bias, or prejudice.

Instruction No. 6

Evidence is the testimony of witnesses, exhibits admitted, stipulations, and any other matter admitted into evidence. Statements and arguments of lawyers, questions, and stricken material are not evidence. Consider only admitted evidence.

Instruction No. 7

Direct and circumstantial evidence are both acceptable. Consider all the evidence.

Instruction No. 8

You heard testimony from an expert witness. Consider the expert's education and experience, the soundness of the reasons for the opinion, and all other evidence. You may accept or reject expert testimony.

Instruction No. 9

A corporation is entitled to the same fair consideration as an individual.

Instruction No. 10

Fault means negligence. Negligence is the failure to use ordinary care—the care a reasonably careful person would use under similar circumstances.

Instruction No. 11

The mere fact an accident occurred or someone was injured does not by itself prove negligence.

Instruction No. 12

Conduct is a cause of damage when the damage would not have happened except for that conduct and the conduct was a substantial factor in producing the damage. There may be more than one cause.

Instruction No. 13

The Plaintiff claims the defendants were at fault.

The plaintiff must prove all of the following propositions:

1. Defendant Calvin Hofer was at fault. In order to prove fault, the plaintiff must prove defendant Hofer failed to maintain a proper lookout. "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 law is negligence/fault; ~~or~~ *and*

C28

2. ~~The~~ Calvin Hofer's fault was a cause of the plaintiff's damage.

3. The amount of damage.

If the plaintiff has failed to prove any of these propositions, the plaintiff is not entitled to damages. If the plaintiff has proved all of these propositions, you will consider the defense of comparative fault as explained in Instruction No. 19.

Instruction No. 14

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, Defendant Calvin Hofer, and Fresner Aurelien, who has been released from this case, and the extent of the causal relationship between their conduct and the damages claimed by the Plaintiff. Defendants Calvin Hofer and B. Velky Log Hauling, Inc. are to be considered a single party for purposes of determining fault. You should then determine what percentage, if any, each person's fault contributed to the damages.

Instruction No. 15

Iowa law prohibits stopping or leaving a vehicle on the main traveled portion of a highway when practicable to stop off the highway, and requires leaving at least twenty feet clear and a 200-foot clear view. A violation of this law is negligence. However, this prohibition does not apply to the driver of any vehicle which will not operate while on the main traveled portion of a highway if it is impossible to avoid stopping and temporarily leaving the inoperable vehicle in that position.

Whenever a vehicle is stopped upon a road or the adjacent shoulder outside of a business district, whether attended or unattended, the vehicle shall be equipped with one or more parking lights which shall display a red light visible from 500 feet to the rear. A violation of this law is negligence.

Instruction No. 16

The Defendants claim that Fresner Aurelien (released party) was at fault in one or more of the following particulars:

1. Stopping on the traveled portion of the roadway or
2. Failing to exercise ordinary care under the circumstances.
3. Failing to have a red light visible at least 500 feet to the rear.

These grounds of fault have been explained to you in other instructions.

The defendants must prove both of the following propositions:

1. Fresner Aurelien was at fault. The Defendants must prove that Fresner Aurelien, as a released party, was at fault for stopping on the traveled portion of the roadway, failing to exercise ordinary care under the circumstances, or failing to have a red light visible at least 500 feet to the rear.
2. Fresner Aurelien's fault was a legal cause of the plaintiff's damage.

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

Instruction No. 17

If you find Defendants liable, decide the amount that fairly compensates Plaintiff for: (1) Past medical expenses (limited to amounts actually paid or owed under Iowa law); (2) Past physical and mental pain and suffering, including loss of enjoyment of life; and (3) Future physical and mental pain and suffering reasonably certain to be experienced. Do not duplicate damages.

Instruction No. 18

Any award for future damages must be stated in present value—the amount of money which, if paid now and reasonably invested, would provide the equivalent of future loss.

Instruction No. 19

A standard mortality table indicates a person of Plaintiff's age has a normal life expectancy of 40.11 years. This is not conclusive; consider all evidence in determining duration of future losses.

Instruction No. 20

These damage instructions are given only to guide you if you find for Plaintiff on liability. Do not assume from these instructions that I have any opinion on who should prevail.

Instruction No. 21

Do not agree in advance to average figures or use chance methods to decide damages.

Your verdict must result from careful consideration and honest exchange of views.

Instruction No. 22

Do not communicate about the case or conduct any independent research until after the trial is over. Decide the case solely on the evidence presented in court and the law in these instructions.

Instruction No. 23

Select a foreperson. Deliberate with open minds, listen to one another, and attempt to reach a just verdict without bias.

Instruction No. 24

You may use your notes during deliberations. Notes are not evidence and should not replace your memory. After the verdict, leave your notes in the jury room to be destroyed.

Instruction No. 25

If you have a question, submit it in writing through your foreperson. I may answer questions of law but cannot supply new evidence or answer factual questions.

Instruction No. 26

I am giving you one verdict form with six questions. 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 and answers to questions must be signed by your foreman or forewoman.

After deliberating for six hours from 10:25 o'clock a.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 and questions must be signed by all seven jurors who agree.

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

Christopher L. Burns

Dated: October 16, 2025