

IN THE IOWA DISTRICT COURT FOR ADAIRCOUNTY

JULIA GILES

Plaintiff,

vs.

TLH CLEANING, LLC

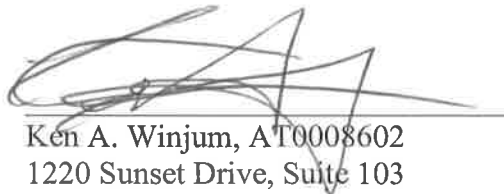
Defendant.

LACV NO. 006218

PLAINTIFF'S PROPOSED JURY
INSTRUCTIONS

COMES NOW the Plaintiff and hereby submits the following proposed jury instructions
for the above entitled action.

Attorney for Plaintiff



Ken A. Winjum, AT0008602
1220 Sunset Drive, Suite 103
Norwalk, IA 50211
Telephone: (515) 981-5220
E-Mail: kwinjum@winjumlaw.com

Original Filed.

Copies to:

Timothy Clausen
Zach Clausen
4280 Sergeant Rd, Ste. 290
Sioux City, IA 51106
E-Mail: clausen@klasslaw.com

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was
served upon all parties to the above cause to each of the attorneys
of record herein at their respective addresses disclosed on the
pleadings on March 30 2021

By: ☐ Overnight Courier ☐ FAX ☐ E-mailed
☐ Hand Delivered ☐ U.S. Mail ☒ E filed
☐ Certified Mail ☐ Scanned ☐ Other

Signature



STATEMENT OF THE CASE

Members of the Jury: This case arises out of a slip and fall injury which occurred on January 2, a motor vehicle accident which occurred on January 2, 2017. Plaintiff, Julie Giles claims that the Defendant TLH Cleaning, LLC was negligent or at fault in causing the accident and resulting injuries and damages. The Defendant denies the claims of the Plaintiff and claims that Plaintiff was at fault for the incident. 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.

Authority

Iowa Civil Jury Instruction 100.1

INSTRUCTION NO. _____

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 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.

Authority

Iowa Civil Jury Instruction 100.2

INSTRUCTION NO. _____

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.

Authority

Iowa Civil Jury Instruction 100.3

INSTRUCTION NO. _____

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.

Authority

Iowa Civil Jury Instruction 100.4

INSTRUCTION NO. _____

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.

Authority

Iowa Civil Jury Instruction 100.5

INSTRUCTION NO. _____

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.

Authority

Iowa Civil Jury Instruction 100.6

INSTRUCTION NO. _____

Counsel has stipulated that if were called as a witness [he] [she] would testify as stipulated.
Consider stipulated testimony as if it had been given in court.

Authority

Iowa Civil Jury Instruction 100.8

INSTRUCTION NO. _____

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.

Authority

Iowa Civil Jury Instruction 100.9

INSTRUCTION NO. _____

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.

Authority

Iowa Civil Jury Instruction 100.12

INSTRUCTION NO. _____

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.

Authority

Iowa Civil Jury Instruction 100.18

INSTRUCTION NO. _____

The fact that a plaintiff or defendant is a corporation should not affect your decision. All person are equal before the law, and corporations, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

Authority

Iowa Civil Jury Instruction 100.20

INSTRUCTION NO. _____

Whether or not any party has any kind of insurance has nothing whatsoever to do with the issues to be decided by you. You should not speculate as to the existence kind or amount of insurance coverage.

Authority

Price v. King, Hartford Acc. & Indem. Co., 122 N.W.2d 318, 321 (Iowa 1963); Laguna v. Prouty, 300 NW2d 98, 102 (Iowa 1981)

INSTRUCTION NO. _____

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.

Authority

Iowa Civil Jury Instruction 100.21

INSTRUCTION NO. _____

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.

Authority

Iowa Civil Jury Instruction 100.23

INSTRUCTION NO. _____

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

1. The reasonable cost of necessary hospital charges, doctor charges, prescriptions and other medical services from the date of injury to the present time.

In determining the reasonable cost of necessary hospital charges, doctor charges, prescriptions, and other medical services, you may consider the amount charged, the amount actually paid, or any other evidence of what is reasonable and proper for such medical expense.

2. The reasonable cost of necessary hospital charges, doctor charges, prescriptions, OTC medication and other medical services from the date of injury to the present time.

In determining the reasonable cost of necessary hospital charges, doctor charges, prescriptions, OTC medication and other medical services, you may consider the amount charged, the amount actually paid, or any other evidence of what is reasonable and proper for such medical expense.

3. 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.

4. The present value of future physical and mental pain and suffering.
5. 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.
6. The present value of future loss of function of the body.

The amount you assess for physical and mental pain and suffering in the past and future, loss of function of the body in the past and future 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.
10/97

Authority

Iowa Civil Jury Instruction 200.1, 200.6, 200.7, 200.10, 200.11B, 200.12, 200.13B.

INSTRUCTION NO. _____

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

Authority

Iowa Jury Instruction 200.37

INSTRUCTION NO. _____

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

Authority

Iowa Jury Instruction 200.38

INSTRUCTION NO. _____

I am giving you _____ verdict forms . 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 _____ o'clock ____m. excluding meals or recesses outside your jury room, then it is necessary that only (seven) (six)* of you agree upon the answers to the questions. In that case, the verdict must be signed by all seven jurors who agree.

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

Authority

Iowa Civil Jury Instruction 300.1

INSTRUCTION NO. _____

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.

Authority

Iowa Civil Jury Instruction 400.1

INSTRUCTION NO. _____

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 the defendant and the plaintiff along with 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.

Authority

Iowa Civil Jury Instruction 400.2

INSTRUCTION NO. _____

The plaintiff must prove all of the following propositions:

1. The defendant knew or in the exercise of reasonable care should have known of a condition on the premises and that it involved an unreasonable risk of injury to a person in the plaintiff's position.
2. The defendant knew or in the exercise of reasonable care should have known:
 - a. the plaintiff would not discover the condition, or
 - b. the plaintiff would not realize the condition presented an unreasonable risk of injury, or
 - c. the plaintiff would not protect herself from the condition.
3. The defendant was negligent in failing to:
 - a. place ice melt or salt in the area in which the plaintiff was walking
 - b. failure to warn plaintiff of the slippery condition of area in which she was walking, or
 - c. failure to follow procedures designed to protect person's in plaintiff's position.
 - d. failure to properly train crewmembers to observe conditions posing a risk to a person in plaintiff's position.
4. The negligence was a cause of the plaintiff's damage.
5. The nature and extent 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, the plaintiff is entitled to damages in some amount.

Authority

Iowa Civil Jury Instruction 900.1

INSTRUCTION NO. _____

Owners and occupiers owe a duty to exercise reasonable care in the maintenance of their premises for the protection of lawful visitors. You may consider the following factors in evaluating whether the Defendant has exercised reasonable care for the protection of lawful visitors:

1. The foreseeability or possibility of harm;
2. The purpose for which the visitor entered the premises;
3. The time, manner, and circumstances under which the visitor entered the premises;
4. The use to which the premises are put or are expected to be put;
5. The reasonableness of the inspection, repair, or warning;
6. The opportunity and ease of repair or correction or giving of the warning; and
7. The burden on the land occupier and/or community in terms of inconvenience or cost in providing adequate protection.
8. Any other factor shown by the evidence bearing on this question.

Authority

Iowa Civil Jury Instruction 900.2

INSTRUCTION NO. _____

The [owner] [occupant] of premises is presumed to know all conditions on the premises that are caused or created by the [owner] [occupant] or the [owner's] [occupant's] [agent] [employee]. The [owner] [occupant] of premises is not responsible for an injury suffered by a person on the premises which resulted from a condition of which the [owner] [occupant] had no knowledge, unless the condition existed for a long enough time that in the exercise of reasonable care the [owner] [occupant] should have known about it.

Authority

Iowa Civil Jury Instruction 900.5

INSTRUCTION NO. _____

"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.

Authority

Iowa Civil Jury Instruction 700.2

INSTRUCTION NO. _____

The conduct of a party is a cause of damage when the damage would not have happened except for the conduct.

Authority

Iowa Civil Jury Instruction 700.3

INSTRUCTION NO. _____

You must decide whether the claimed harm to plaintiff is within the scope of defendant's liability. The plaintiff's claimed harm is within the scope of a defendant's liability if that harm arises from the same general types of danger that the defendant should have taken reasonable steps to avoid.

Consider whether repetition of defendant's conduct makes it more likely harm of the type plaintiff claims to have suffered would happen to another. If not, the harm is not within the scope of liability.

Authority

Iowa Civil Jury Instruction 700.3A

IN THE IOWA DISTRICT COURT FOR ADAIRCOUNTY

JULIA GILES

Plaintiff,

LACV NO. 006218

VS.

TLH CLEANING, LLC

VERDICT

Defendant.

We find the following verdict on the questions submitted to us:

Question No. 1: Was Defendant TLH Cleaning, LLC at fault?

Answer "yes" or "no."

ANSWER:

[If your answer is "no," do not answer any further questions.]

Question No. 2: Was the fault of the defendant a cause of any item of damage to the plaintiff?

Answer "yes" or "no."

ANSWER:

[If your answer is "no," do not answer any further questions.]

Question No. 3: Was any item of damage to the plaintiff within the scope of defendant's liability?

Answer "yes" or "no."

ANSWER

[If your answer is “no”, do not answer any further questions.]

Question No. 4: Was the plaintiff at fault?

Answer "yes" or "no."

ANSWER:

[If your answer is "no," do not answer Questions No. 5 or 6.]

Question No. 5: Was the plaintiff's fault a cause of any damage to the plaintiff?

Answer "yes" or "no."

ANSWER:

[If your answer is "no," do not answer Question No. 6.]

Question No. 6: Was any item of damage to the plaintiff within the scope of plaintiff's liability?

Answer "yes" or "no."

ANSWER

[If your answer is "no," do not answer Question No. 7.]

Question No. 7: Using 100% as the total combined fault of plaintiff and defendant which was a cause of plaintiff's damage [and within the scope of liability], what percentage of such combined fault do you assign to the plaintiff and what percentage of such combined fault do you assign to the defendant?

ANSWER: Plaintiff _____ %
Defendant _____ %
TOTAL _____ 100%

[If you find plaintiff to be more than 50% at fault, do not answer Question No. 8.]

Question No. 6: State the amount of damages sustained by the plaintiff caused by a defendant's fault as to each of the following items of damage. Do not take into consideration any reduction of damages due to plaintiff's fault. If the plaintiff has failed to prove any item of damage, or has failed to prove that any item of damage was proximately caused by a defendant's fault, enter 0 for that item.

1. Past medical expenses	\$ _____
2. Future medical expenses	\$ _____
3. Past pain and suffering	\$ _____
4. Future pain and suffering	\$ _____
5. Past loss of body (function)	\$ _____
6. Future loss of body (function)	\$ _____
TOTAL (add the separate items of damage)	\$ _____

Authority

Iowa Civil Jury Instruction 300.6