

IN THE DISTRICT COURT OF IOWA, IN AND FOR MUSCATINE COUNTY

<p>TANYA LOPEZ-VILETA, parent and next of friend for: J.A.L.V., and INDIVIDUALLY, on their own behalf, as parents,</p> <p style="text-align: center;">Plaintiffs,</p> <p>vs.</p> <p>WEST LIBERTY COMMUNITY SCHOOL DISTRICT, SHAUN KRUGER in his official capacity, and VICKI VERNON in her official capacity,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: center;">Case No. LACV 027100</p> <p style="text-align: center;">JURY INSTRUCTIONS</p>
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STATEMENT OF THE CASE

Members of the Jury:

Plaintiff Tanya Lopez-Vileta has brought this claim as parent and next friend for J.A.L.V., a minor, and individually on her own behalf as parent against the Defendants, West Liberty Community School District, Shaun Kruger, and Vicki Vernon. Plaintiff alleges the Defendants were negligent in the supervision of Emily Erin Resendiz while J.A.L.V. was a student at West Liberty Community School District. Plaintiff alleges the negligent supervision of Emily Erin Resendiz resulted in damages to herself and J.A.L.V.

Defendants deny these allegations.

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 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.

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 (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.

INSTRUCTION NO. 4

During this trial, you have heard the word “interrogatory.” An interrogatory is a written question asked by one party to another, who must answer it under oath in writing.

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.

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.

INSTRUCTION NO. 7

You have heard evidence claiming certain witnesses made statements before this trial while under oath which were inconsistent with what they said in this trial. If you find these statements were made and were inconsistent, then you may consider them as part of the evidence, just as if they had been made at this trial.

You may also use these statements to help you decide if you believe certain witnesses. You may disregard all or any part of the testimony if you find the statements were made and were inconsistent with the testimony given at trial, but you are not required to do so. Do not disregard the trial testimony if other evidence you believe supports it, or if you believe it for any other reason.

INSTRUCTION NO. 8

You have heard evidence claiming certain witnesses made statements before this trial while not under oath which were inconsistent with what the witness said in this trial.

Because the witness did not make the earlier statements under oath, you may use them only to help you decide if you believe the witness.

Decide if the earlier statements were made and whether they were inconsistent with testimony given at trial. You may disregard all or any part of the testimony if you find the statements were made and they were inconsistent with the testimony given at trial, but you are not required to do so.

Do not disregard the testimony if other evidence you believe supports it or if you believe it for any other reason.

INSTRUCTION NO. 9

The fact that a Defendant is a government entity should not affect your decision. All persons are equal before the law. All persons and entities, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

INSTRUCTION NO. 10

In these instructions, I will be using the term “fault.” Fault means one or more acts or omissions towards another, which constitutes negligence.

INSTRUCTION NO. 11

“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. 12

Plaintiff claims that Defendant West Liberty Community School District was negligent. In order to prevail on this claim, Plaintiff must prove all of the following propositions:

1. Defendant was negligent by failing to properly supervise Emily Erin Resendiz.
2. Defendant’s negligence, if any, was the cause of Plaintiff’s damages.
3. Damages.

If the plaintiff has failed to prove any of these numbered propositions, the plaintiff is not entitled to damages. If the plaintiff has proven all of these propositions, the plaintiff is entitled to damages in some amount.

INSTRUCTION NO. 13

If you find Tanya Lopez-Vileta is entitled to recover for damage sustained by her as the result of the assault to J.A.L.V., it is your duty to determine the amount. In doing so you shall consider the following items:

1. The reasonable value of the past loss of services, which include loss of companionship and society of the child, from the date of the child's injury to J.A.L.V. to the time of his graduation from high school, minus the probable cost of the child's board and maintenance during that time period.
2. The present value of the future loss of services, which includes loss of companionship and society of the child, from the present time until the child graduates from high school minus the present value of the probable cost of child support and maintenance during that same time period.

Items 1 and 2 include the parents right to the intangible benefits of companionship, cooperation and affection of the child. They do not include mental anguish by the parent caused by the injury to the child.

In determining loss of companionship and society, you may consider the circumstances of the life of the child including:

1. The child's age, health, strength, intelligence, character, interests and personality.
2. Activities in the household and community.
3. All other facts and circumstances bearing on the issue.

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

INSTRUCTION NO. 14

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as J.A.L.V. is 60 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about J.A.L.V.'s health, habits, occupation, and lifestyle, when deciding issues of future damages.

INSTRUCTION NO. 15

You must decide whether the claimed harm to the plaintiff is within the scope of the defendant's liability. Harm is within the scope of the defendant's liability when it is among the type of reasonably foreseeable harms that made the defendant's conduct negligent.

If repeating the defendant's conduct would make it more likely for another person to suffer the same type of harm claimed by plaintiff, then the harm is foreseeable and within the scope of defendant's liability. If defendant's conduct merely places plaintiff in a situation where plaintiff sustains injury from an unrelated act or event, the claimed harm is not within the scope of defendant's liability.

INSTRUCTION NO. 16

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

INSTRUCTION NO. 17

The mere fact a party was injured does not mean that any other party was negligent.

INSTRUCTION NO. 18

The Defendants West Liberty Community School District, Shaun Kruger, and Vicki Vernon are to be considered as one party.

INSTRUCTION NO. 19

If you find Plaintiff is entitled to recover damages, you shall consider the following items as it relates to J.A.L.V.:

1. Physical and mental pain and suffering in the past (from the date of the 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.
2. Loss of full use and function of mind and body in the past (from the date of the injury to the present time). Loss of mind is the inability of a particular part of the mind to function in a normal manner. Loss of body is the inability of a particular part of the body to function in a normal manner.
3. The present value of future loss of function of the mind and body.
4. The present value of future physical and mental pain and suffering.

The amount you assess for physical and mental pain and suffering in the past and future and loss of function of mind and 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 the Defendants as proved by the evidence.

Future damages must be reduced to present value. "Present value" is a sum of money paid now in advance which, together with interest earned at a reasonable rate of return, will compensate the plaintiff for future losses.

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 questions in the verdict form.

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

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. 22

You may not communicate about this case before reaching your verdict. This includes via cell phone and electronic media such as text messages, email, electronic messaging applications, and any social media platform or other social media applications you may use.

Do not do any research or make any investigation about this case on your own. Do not use internet or application-based maps or programs, or any other application, program, or device to search for or 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.

Your cell phones must be turned off during deliberations. If the length of deliberation causes you to need to make a call regarding personal arrangements such as child care or other scheduling issues, you may make such calls when the jury takes a break and temporarily stops deliberations, but you must not discuss the case until after you have reached your verdict and I have released you from jury duty.

INSTRUCTION NO. 23

Upon retiring you shall select a foreperson. It will be their 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 their 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. 24

Occasionally, after a jury retires to the jury room, members have questions. I have prepared the instructions after carefully considering this case with the parties and the lawyers. I have tried to use language which is generally understandable. Usually, questions about instructions can be answered by carefully re-reading the instructions.

If, however, any of you feel it is necessary to ask a question, you must do so in writing with the foreperson signing the request and date same and delivering the questions to the court attendant. I cannot communicate with you without first discussing your question and potential answer with the parties and lawyers.

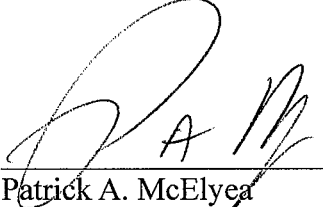
INSTRUCTION NO. 25

I am giving you one verdict form with four (4) 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 the foreperson.

After deliberating for six hours from _____, excluding meals or recesses outside your jury room, then it is necessary that only seven of you agree upon 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, please tell the Court Attendant.

Dated this 30th day of October, 2025.


Patrick A. McElyea
Judge, Seventh Judicial District

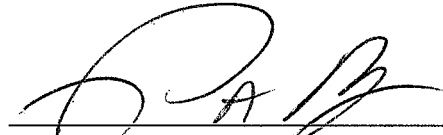
INSTRUCTION NO. 26

Members of the Jury:

You reported today at 9:00 a.m. and it is now 4:30 p.m. Further, you have been deliberating the issues since approximately 3:30 p.m. Because of the lateness of the hour and the length of today's service, the Court deems it advisable that you be allowed to separate temporarily overnight.

While temporarily separated, you should not permit anyone, including fellow jurors, to speak to or communicate with you about this case or reveal the state of your deliberations to anyone. You should avoid spoken or written publicity about the case in all radio, television, or newspaper comments or accounts of this case.

You shall report back to your jury room at 9:00 a.m., Friday, October 31, 2025, at which time you will resume and continue your deliberations.



Patrick A. McElyea, District Judge
Seventh Judicial District of Iowa

ARE WE EXPECTED TO LEAVE

AT 4:30

Foreperson




Jason Anderson

INSTRUCTION NO. 27

The Court has reviewed your questions (attached) with the parties and instructs you as follows:

1. The Court infers from the "x" that this is no longer a question. In the event that it is, you have received all of the evidence, please re-read the jury instructions and apply the facts to the law in the instructions.
2. Please re-read the jury instructions.
3. You have received all of the exhibits admitted into evidence. Please re-read the jury instructions.



Patrick A. McElyea
Judge, Seventh Judicial District

~~Is summer baseball a school program or is it a separate entity?~~

~~- Is the case negligence in supervision of Ms. Resendiz only or is it also in regards to supervision of students (JABV)?~~

~~- Do we get to see depositions? Not in binder Exhibit 51 & Exhibit 60 were in notes as Deposition of MR Vernon & MR Kruger
- would like to see all if possible~~

Jaime