

## IN THE IOWA DISTRICT COURT FOR BOONE COUNTY

JULIA PUHR-MARVEL, Plaintiff,  v.  ERIN ELIZABETH RICHARDSON, Defendant.	CASE NO. LACV041796  JURY INSTRUCTIONS
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Members of the Jury: This is a civil case brought by Plaintiff Julia Puhr-Marvel against Defendant Erin Richardson. Ms. Puhr-Marvel alleges that she was injured at the home of Ms. Richardson on March 14, 2019, and that Ms. Richardson is liable to her for her injuries. Ms. Richardson denies that she is liable for the injuries she suffered and further states that Ms. Puhr-Marvel's actions were the cause of her own injuries.

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. 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. 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.

#### 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

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. 5

You have heard evidence claiming Plaintiff Julia Puhr-Marvel and Defendant

Erin Richardson made statements before this trial while not under oath.

If you find such a statement or statements were made, you may regard the statement or statements as evidence in this case the same as if Ms. Puhr-Marvel or Ms. Richardson had made it under oath during the trial.

If you find such a statement or statements were made and were inconsistent with Ms. Puhr-Marvel's or Ms. Richardson's testimony during the trial, you may also use the statement as a basis for disregarding all or any part of Ms. Puhr-Marvel's or Ms. Richardson's testimony during the trial but you are not required to do so. You should not disregard Ms. Puhr-Marvel's or Ms. Richardson's testimony during the trial if other credible evidence supports it or if you believe it for any other reason.

#### INSTRUCTION NO. 6

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

#### INSTRUCTION NO. 7

If you find Plaintiff Julia Puhr-Marvel is entitled to recover damages, it is your duty to determine the amount. In doing so you shall consider the following items:

1. Past Medical Expenses. The reasonable value of necessary hospital charges, doctor charges, prescriptions, and other medical services from the date of injury to the present time.
2. Past Lost Wages. The reasonable value of lost wages from the date of injury to the present time.
3. Physical and Mental Pain and Suffering. 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 in the past 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. 8

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. 9

In order to prove the claim of assault, Plaintiff Julie Puhr-Marvel must prove all of the following propositions:

1. Defendant Erin Richardson did intend to put Ms. Puhr-Marvel in fear of physical pain or injury or in fear of physical contact which would be insulting or

offensive.

2. Ms. Puhr-Marvel reasonably believed that the act would be carried out immediately.

3. Ms. Richardson's act was a proximate cause of Ms. Puhr-Marvel's damage.

4. The amount of damage.

If Ms. Puhr-Marvel has failed to prove any of these propositions, she is not entitled to damages. If Ms. Puhr-Marvel has proved all of these propositions, then you will consider the defense that Ms. Puhr-Marvel was a trespasser on Ms. Richardson's property, and Ms. Puhr-Marvel's actions, both negligent and intentional, were the cause of her injuries, as explained in Instruction No. 17.

#### INSTRUCTION NO. 10

An assault is committed when a person does: (1) an act intended to put another in fear of physical pain or injury; (2) an act intended to put another in fear of physical contact which a reasonable person would deem insulting or offensive; and the victim reasonably believes that the act may be carried out immediately.

Threatening words alone do not constitute an assault unless it appears that the person has the ability to carry out the threat at the time the words were spoken.

#### INSTRUCTION NO. 11

In order to prove the claim of battery, Plaintiff Julia Puhr-Marvel must prove all of the following propositions:

1. Defendant Erin Richardson did push Ms. Puhr-Marvel off the front porch causing physical pain or injury.

2. The act was done with the intent to cause physical pain or injury.
3. Ms. Richardson's act resulted in physical pain or injury.
4. Ms. Richardson's act was a proximate cause of Ms. Puhr-Marvel's damage.
5. The amount of damage.

If Ms. Puhr-Marvel has failed to prove any of these propositions, she is not entitled to damages. If Ms. Puhr-Marvel has proved all of these propositions, then you will consider the defense that Ms. Puhr-Marvel was a trespasser on Ms. Richardson's property, and that Ms. Puhr-Marvel's actions, both negligent and intentional, were the cause of her injuries, as explained in Instruction No. 17.

#### INSTRUCTION NO. 12

A battery is committed when a person intentionally does:

1. An act resulting in bodily contact causing physical pain or injury.
2. An act results in bodily contact which a reasonable person would deem insulting or offensive.

#### INSTRUCTION NO. 13

Intent means doing something on purpose as opposed to accidentally. Because intent requires a finding of what a person is thinking when doing an act, it is seldom capable of being proven by direct evidence. You may use your common experience when considering all of the facts surrounding the doing of an act to determine what a person's intent was when committing the act. You may find that if a person does an act on purpose, the person also intended the natural results of the act.

## INSTRUCTION NO. 14

To entitle Plaintiff Julia Puhr-Marvel to recover on the claim of negligence, she must prove all of the following propositions:

1. Defendant Erin Richardson was negligent by failing to restrain her use of force by using too much force to push Ms. Puhr-Marvel.
2. The negligence was a proximate cause of damage to Ms. Puhr-Marvel.
3. The amount of damage.

If Ms. Puhr-Marvel has failed to prove any of these propositions, she is not entitled to damages. If she has proved all of these propositions, then you will consider the defense that Ms. Puhr-Marvel was a trespasser on Ms. Richardson's property, and Ms. Puhr-Marvel's actions, both negligent and intentional, were the cause of her injuries, as explained in Instruction No. 17.

## INSTRUCTION NO. 15

"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. 16

The conduct of a party is a proximate cause of damage when it is a substantial factor in producing damage and when the damage would not have happened except for



the conduct. "Substantial" means the party's conduct has such an effect in producing damage as to lead a reasonable person to regard it as a cause.

INSTRUCTION NO. 17

A person has the right to use physical force to protect their property rights, including the right to use physical force to remove trespassers from their property. This force cannot exceed that which is reasonably necessary to protect the property right. If Defendant Erin Richardson ordered Plaintiff Julia Puhr-Marvel to leave her home, and Ms. Puhr-Marvel failed to do so, Ms. Puhr-Marvel, in order to recover in this action, must prove by a preponderance of the evidence, that Ms. Richardson used more force than was reasonable and necessary in removing Ms. Puhr-Marvel from her home.

INSTRUCTION NO. 18

A "trespasser" is one who has no legal right to be upon another's land and enters the land without the express or implied consent of the owner.

INSTRUCTION NO. 19

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. 20

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 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 facts. Your sole interest is to find the truth and do justice.

## INSTRUCTION NO. 21

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, X, 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.

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

#### INSTRUCTION NO. 22

Occasionally, after a jury retires to the jury room, the members have questions. I have prepared the instructions after carefully considering the case with the parties and the attorneys. I have tried to use language which is generally understandable. Usually, questions about instructions can be answered by carefully re-reading them. If, however, you feel it necessary to ask a question, you may do so in writing. I cannot communicate with you without first discussing your question and potential answer with the parties and attorneys. This naturally takes time and deliberation before I can reply.

The Court Attendant who has been working with us in this case is in the same position as I am. She has taken an oath not to communicate with you except to ask if you have agreed upon a verdict. Please do not put her on the spot by asking any questions.

If you need to notify anyone about the time you will be deliberating, for example, a spouse, babysitter, or employer, please notify the Court Attendant in writing, or before you begin your deliberations, and we will make a phone available to you for that purpose.

Finally, if you have any personal communication device such as a cellular or digital telephone or paging device, you should leave those with the Court Attendant and not take them into the jury room while deliberating.

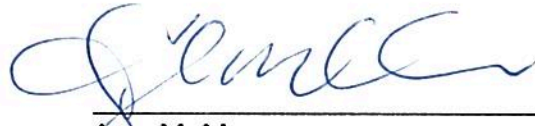
#### INSTRUCTION NO. 23

I am giving you a blank verdict form and special interrogatories. During the first six (6) hours of deliberations, excluding meals and recesses outside your jury room, your decision must be unanimous. If you all agree, the verdict and interrogatories must be signed by your foreman or forewoman.

After deliberating for six (6) hours from 4:16 p.m., November 7, 2023, excluding meals or recesses outside your jury room, then it is necessary that only seven (7) of you agree upon the answers to the questions. In that case, the verdict and interrogatories must be signed by all seven (7) jurors who agree.

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



A handwritten signature in blue ink, appearing to read "Amy M. Moore", is written over a horizontal line.

Amy M. Moore  
District Court Judge