

INSTRUCTION NO. 2

During the trial, the Court has ruled upon objections to evidence which have, from time to time, been made by counsel, and this Court has done so according to the rules of evidence. Such rulings made by the Court are the responsibility of the Court solely, and in your consideration of the case you will give no significance or weight whatever to such rulings, and you will consider only such evidence as has been received before you, and which has not been stricken by the Court.

INSTRUCTION NO. 3

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.

Do not be influenced by any personal likes or dislikes, 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. 4

Nothing I have said or done during this trial was meant to give you any indication about what your verdict should be or that I have any opinion one way or the other regarding the merits of this case.

INSTRUCTION NO. 5

Whenever a party must prove something they must do so by 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. 6

You shall base your verdict only upon 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. Testimony I told you to disregard.
4. Anything you saw or heard about this case outside to this courtroom.

INSTRUCTION NO. 7

Certain testimony has been entered 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.

JURY INSTRUCTION NO. 8

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.

INSTRUCTION NO. 9

You will decide the facts from the evidence. Consider the evidence using your observations, common sense and experience. You must try and 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 the 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. 10

Evidence may be direct evidence or circumstantial. Direct evidence is evidence by someone with firsthand knowledge such as an eyewitness. Circumstantial evidence is evidence based on a chain of circumstances which would tend to show the existence or nonexistence of certain facts. The law makes no distinction between direct and circumstantial evidence. You should give all of the evidence the weight you believe it is entitled to receive.

INSTRUCTION NO. 11

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.

Occasionally during the trial, an expert witness was asked to assume certain facts were true and to give an opinion based on that assumption. This is called a hypothetical question. If any fact assumed in the question has not been proved by the evidence, you should decide if that omission affects the value of the opinion.

INSTRUCTION NO. 12

"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.

In this case, the Defendant has admitted negligence and fault. The law does not impose liability for negligence unless the breach of a duty of care is also the cause in fact of the Plaintiff's damages. The Defendant's conduct must have in fact caused the Plaintiff's claimed damages. To recover for damages, the Plaintiff must prove that the damages would not have occurred but for the Defendant's negligence.

JURY INSTRUCTION NO. 13

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

INSTRUCTION NO. 14

Plaintiff must prove the amount of damage caused by Defendant JoAnn Stewart's fault. If Plaintiff fails to prove an item of damage was the fault of JoAnn Stewart, she is not entitled to damages for that element. If Plaintiff proves JoAnn Stewart's fault was a cause of her damage, then she is entitled to recover damages in some amount.

INSTRUCTION NO. 15

If you find Plaintiff had a medical condition before this accident and this condition was aggravated by this incident causing further suffering or disability, then she is entitled to recover damages caused by the aggravation. Plaintiff is not entitled to recover for any physical ailment or disability which existed before this incident or for any injuries or damages which she now has which were not caused by the Defendant's actions.

INSTRUCTION NO. 16

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

Past Medical Expenses. The reasonable value of necessary hospital charges, doctor charges, prescriptions, and other medical services from the dates of injury to the present time.

Past Lost Wages. The reasonable value of lost income from the date of the injury to the present time. This amount may not be reduced as a result of sick leave.

Loss Of Future Earning Capacity. The present value of loss of future earning capacity. Loss of future earning capacity is the reduction in the ability to work and earn money generally, rather than in a particular job.

Loss Of Body Function - Past. 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.

Loss Of Body Function - Future The present value of future loss of function of the body.

Physical And Mental Pain And Suffering - Past. Physical and mental pain and suffering from the date of injuries 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.

Physical And Mental Pain And Suffering – Future. 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 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.

INSTRUCTION NO. 17

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.

INSTRUCTION NO. 18

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.

JURY INSTRUCTION NO. 19

A Standard Mortality Table indicates that the normal life expectancy of people who are the same age as Jennifer Meade is 26.57 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Jennifer Meade's health, habits, occupation, and lifestyle, when deciding issues of future damages.

JURY INSTRUCTION NO. 20

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 his or her views.

Your attitude at the beginning of your deliberation 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.

JURY 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.

JURY INSTRUCTION NO. 22

You may not communicate about this case before reaching your verdict. This includes cell phones and electronic media such as text messages, Facebook, Instagram, 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.

JURY INSTRUCTION NO. 23

I am giving you one (1) 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 must be signed by your foreman or forewoman.

After deliberating for six hours from 3:35 o'clock ^{10/9/25} p.m. excluding meals and 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 must be signed by all seven jurors who agree.

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

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JOHNSON COUNTY, IOWA