

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

SANDRA STRUNK-SOSALLA

Plaintiffs,

v.

KAHLIL ANDREWS, M.D.; DR.
ANDREWS PLASTIC SURGERY, LLC

Defendants.

LAW NO. LACV 083204

JURY INSTRUCTIONS

MEMBERS OF THE JURY:

This is a medical negligence case. Plaintiff Sandra Strunk-Sosalla has sued Defendants Kahlil Andrews, MD ("Dr. Andrews") and Dr. Andrews Plastic Surgery, LLC.

Plaintiff alleges that Dr. Andrews was negligent in the care and treatment of Plaintiff, causing damages.

Defendants deny that Dr. Andrews was negligent and further deny that his actions caused any damages.

This brief statement of the case is not evidence and is only a general outline of the case which is not intended to influence you either way. 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.

2015 JUN 29 PM 1:43
CLERK OF DISTRICT COURT
JOHNSON COUNTY, IOWA

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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

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.

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 that parties made statements before this trial while under oath and/or while not under oath.

If you find such a statement was made, you may regard the statement as evidence in this case the same as if the party had made it under oath during the trial.

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

INSTRUCTION NO. 8

Defendants Kahlil Andrews, M.D. and Dr. Andrews Plastic Surgery, LLC are to be treated as a single party for purposes of these instructions. When I refer to Dr. Andrews in these instructions, I am also referring to both Defendant Dr. Andrews Plastic Surgery, LLC.

INSTRUCTION NO. 9

The fact that a defendant is a corporation should not affect your decision. All persons 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.

INSTRUCTION NO. 10

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. 11

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 including but not limited to Facebook, LinkedIn, YouTube, X/Twitter, TikTok, Instagram, Snapchat, and any other social media applications you may use.

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 or application based maps programs, or any other application, 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.

INSTRUCTION NO. 12

I have not by these instructions, or by any ruling I have made, or by any act I have done, or by anything I have said during trial, intended or attempted to give any opinion as to what the facts are, what the proof is, nor what your verdict should be.

INSTRUCTION NO. 13

Plaintiff claims Dr. Andrews was negligent.

In order to prevail on this claim, Plaintiff must prove all of the following propositions:

1. The standard of care, i.e., the degree of skill, care and learning ordinarily possessed and exercised by physicians similar to Dr. Andrews under circumstances similar to those presented in this case;
2. Dr. Andrews was negligent by failing to meet the standard of care in the performance of the chin implant procedure through the intraoral approach on March 6, 2020.
3. Dr. Andrews' negligence, if any, was a cause of Plaintiff's damages;
4. The amount of damage.

If Plaintiff has failed to prove any of these propositions, Plaintiff is not entitled to damages. If Plaintiff has proved all of these propositions, Plaintiff is entitled to damages in some amount.

INSTRUCTION NO. 14

If you find Sandra Strunk-Sosalla is entitled to recover damages, you shall consider the following items:

- Loss of full body – past & future: Loss of function of the body from the date of injury to the present time and the present value of future loss of function of the body. Loss of the body is the inability of a particular part of the body to function in a normal manner.

The amount you assess for loss of full body (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. 15

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

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

Physicians who hold themselves out as plastic surgeons must use the degree of skill, care and learning ordinarily possessed and exercised by plastic surgeons in similar circumstances, not merely the average skill and care of a general practitioner.

A violation of this duty is negligence.

INSTRUCTION NO. 18

You are to determine the standard of care (the degree of skill, care and learning required of physicians), any failure to meet the standard of care, and causation only from the opinions of the physicians who have testified as to these subjects.

INSTRUCTION NO. 19

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. 20

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Sandra Strunk-Sosalla is an additional 24.9 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Sandra Strunk-Sosalla's health, habits, occupation, and lifestyle, when deciding issues of future damages.

INSTRUCTION NO. 21

In arriving at an item of damage you cannot arrive at a figure by taking down the estimate 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. 22

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.

INSTRUCTION NO. 23

I am giving you 1 verdict form and 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 3:45 o'clock PM. 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.

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Judge

January 27, 2025

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