

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

ANTHONY GLOEDE,**Plaintiff,****vs.****SKYLAR THOMAS MEINECKE,****Defendant.****CASE NO. LACL 146209****STATEMENT OF THE CASE
AND JURY INSTRUCTIONS**

Members of the Jury:

This case arises out of an automobile collision that occurred on November 3, 2017 when a car driven by plaintiff Anthony Gloede was involved in a collision with a car driven by defendant Skylar Meinecke.

Plaintiff claims that the defendant was negligent and that his negligence was a cause of his injuries and damages. The defendant admit that he was negligent and that his negligence was the cause of the collision, but denies the nature and extent of plaintiff's injuries and damages.

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.

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CLERK OF DISTRICT COURT

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

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.

Evidence must be direct or circumstantial. The weight to be given any evidence is for you to decide.

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 the courtroom.

INSTRUCTION NO. 3

In considering the evidence, you may make deductions and reach conclusions which reason and common sense lead you to make. You should not be concerned about whether the evidence is direct or circumstantial. A fact can be proven by direct evidence when it is proved directly without any inferences, such as through an eye witness. A fact is proven by circumstantial evidence when it can be determined by other facts or circumstances proven in the case.. The law makes no distinction between the weight you may give to either direct or circumstantial evidence. Give all the evidence the weight and the value you think it is entitled to receive.

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 parties made statements before this trial while under oath and 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 that party had made it under oath during the trial.

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

INSTRUCTION NO. 6

Certain testimony has been presented into evidence from a deposition. A deposition is testimony taken under oath before the trial, and preserved in writing or on video. Consider that testimony as if it had been given in court.

INSTRUCTION NO. 7

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. 8

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. 9

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 or the number of exhibits offered by one side or the other.

INSTRUCTION NO. 10

The plaintiff must prove all of the following propositions:

1. The defendant was negligent. This element has been established.
2. The negligence was a cause of damage to the plaintiff. This element has been established.
3. The amount of damage.

If the plaintiff has failed to prove any of these propositions, he is not entitled to damages.

If he has proved all of these propositions, he is entitled to damages in some amount.

INSTRUCTION NO. 11

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

INSTRUCTION NO. 12

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

1. The reasonable value of necessary medical services from the date of injury to the present time.
2. The present value of reasonable and necessary medical services which will be incurred in the future.
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 function of the 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, as well as 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. 13

If you find the plaintiff had a prior condition and this condition was aggravated by this incident causing further suffering or disability then he is entitled to recover damages caused by the aggravation. He is not entitled to recover for any condition or disability which existed before this incident or for any injuries or damages which he now has which were not caused by the defendant's actions.

INSTRUCTION NO. 14

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. 15

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. 16

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as plaintiff is 44.95 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence about plaintiff's health, habits, occupation, and lifestyle, when deciding issues of future damages.

INSTRUCTION NO. 17

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

INSTRUCTION NO. 18

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. 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

Occasionally, during jury deliberations, jurors may have questions for the court, particularly about the instructions. I have prepared the instructions after carefully considering the facts of the case and discussing them with the lawyers. I have tried to use language which is generally understandable. Usually, questions about the instructions can be answered by carefully re-reading them.

However, if you feel it necessary to ask the court a question, you must submit it in writing, with the date and time and signed by your foreperson, and deliver the question to the court attendant, who will deliver it to the court.

I cannot communicate with you until first discussing your question and the potential response with the lawyers, which will naturally take time before I can reply. Once the court's response is received in the jury room, the foreperson shall read it to the jury. You are to keep and written question and the court's response and return it to the court with the verdict.

The court attendant who has been working with me on 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 her any questions. You should direct your questions to the court and not to the court attendant.

INSTRUCTION NO. 21

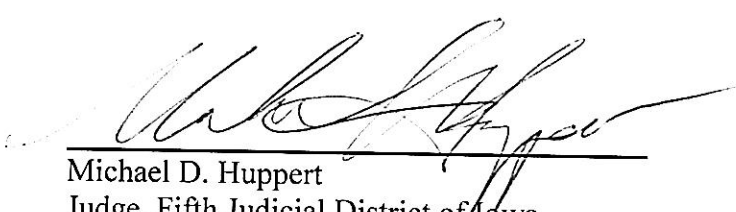
I am giving you one verdict form. During the first six hours of deliberations, excluding meals and recesses outside your jury room, your decision must be unanimous.

If you all agree, the verdict must be signed by your foreman or forewoman.

After deliberating for six hours from 12:00 noon o'clock noon.m. 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 must be signed by all seven jurors who agree.

When you have agreed upon the verdict and appropriately signed it, tell the court attendant.

Dated this 19th day of May, 2021.



Michael D. Huppert
Judge, Fifth Judicial District of Iowa

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