

IN THE IOWA DISTRICT COURT IN AND FOR DELAWARE COUNTY

DEBORAH FERGUSON,

Plaintiff,

vs.

EXIDE TECHNOLOGIES, INC. and,
FRED GILBERT

Defendants.

Case No. LACV008271

**DEFENDANTS' PROPOSED
SUPPLEMENTAL
JURY INSTRUCTIONS**

Defendants Exide Technologies and Fred Gilbert hereby submit their proposed supplemental Jury Instruction.

INSTRUCTION NO. _____

The Defendants claim Plaintiff's physical inability to perform her job at Exide was the proximate cause of plaintiff's damages.

In order to establish this defense the defendant must prove all of the following propositions:


1. Plaintiff's inability to work caused plaintiff's damages and occurred after Defendants terminated Plaintiff for refusing to take a drug and alcohol test.
2. The conduct of the Defendants did not create or substantially increase the risk that the plaintiff would sustain damages as a result of her physical inability to work.
3. The Plaintiff's inability to work was not a reasonably foreseeable consequence of requiring the Plaintiff to take a drug and alcohol test.

Authority:

Iowa Civil Jury Instruction 700.6 (modified)

Restatement (Second) of Torts, sections 440, 441(1), 442(A), 443 and 447

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CERTIFICATE OF SERVICE

The undersigned certifies that on March 1 2018, this document was electronically filed with the Clerk of Court using EDMS which will send notification of such filing to the following:

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SIGNED /s/ Thomas D. Wolle