

**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

<p><b>BELINDA DIAZ as parent of A.S, a minor,</b></p> <p><b>Plaintiffs,</b></p> <p><b>v.</b></p> <p><b>MAURY MENDOZA GONZALEZ,</b></p> <p><b>Defendant.</b></p>	<p><b>CASE NO. LACL153589</b></p> <p><b>JURY INSTRUCTIONS</b></p>
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*Rec'd 1/12/26*  
FILED  
POLK COUNTY, IA.  
2026 JAN -7 PM 1:24  
CLERK DISTRICT COURT

## JURY INSTRUCTION 1

Members of the Jury:

This case arises out of an accident occurring on or about May 25, 2021. The Plaintiff, Belinda Diaz, on behalf of her son, Alan Suarez, claims that Alan was injured when he was struck by a vehicle driven by the Defendant, Maury Mendoza Gonzalez, while he was riding his bicycle. The Plaintiff asserts that the Defendant was at fault for the accident. The Defendant denies that she was negligent and claims that the accident at issue was due to the conduct of Alan Suarez. The Defendant further denies the extent of damages sought by the Plaintiff.

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.

## JURY INSTRUCTION 2

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.

## JURY INSTRUCTION 3

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.

## JURY INSTRUCTION 4

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 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 pretrial 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 are 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 this courtroom.

## JURY INSTRUCTION 5

Maury Mendoza Gonzalez is detained out-of-state for reasons unrelated to this case. As a result, she unable to attend this trial in person. You have received Maury Mendoza Gonzalez's testimony by video.

You are not to infer anything from her absence nor should her absence be used against her as you decide this case.

## JURY INSTRUCTION 6

Certain deposition testimony has been shown by video. A deposition is testimony taken under oath before the trial and preserved in writing or by video. Consider that testimony as if it had been given in court.

## JURY INSTRUCTION 7

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 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.

## JURY INSTRUCTION 8

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 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.

## JURY INSTRUCTION 9

Expert witnesses were 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.

## JURY INSTRUCTION 10

You have heard evidence claiming Belinda Diaz, Alan Suarez and Maury Mendoza Gonzalez, made a statement or statements before this trial either while under oath or while not under oath.

If you find such statement(s) was(were) made, you may regard the statement as evidence in this case the same as if a 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 that party's testimony during the trial if other credible evidence supports it or if you believe it for any other reason.

## JURY INSTRUCTION 11

You have heard evidence claiming Edgar Suarez made statements before this trial while under oath which were inconsistent with what he said in this trial. If you find these statements were made and were inconsistent, then you may consider them as part of the evidence, just as if they had been made at this trial.

You may also use these statements to help you decide if you believe Edgar Suarez. You may disregard all or any part of the testimony if you find the statements were made and were inconsistent with the testimony given at trial, but you are not required to do so. Do not disregard the trial testimony if other evidence you believe supports it, or if you believe it for any other reason.

## JURY INSTRUCTION 12

In these instructions I will be using the term "fault". Fault means one or more acts or omissions towards the person of the actor or of another which constitutes negligence.

## JURY INSTRUCTION 13

"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.

## JURY INSTRUCTION 14

Ordinary care of a child is the care which a reasonable child of like age, intelligence and experience would use under similar circumstances. In determining if Alan Suarez's conduct was negligent, his conduct must be compared to that of a reasonable child of like age, intelligence and experience. You are to first determine the particular capacity of Alan to perceive, avoid, do, not do the risk or act based on his age, intelligence and experience. Next, you are to determine how a reasonable child of like age, intelligence and experience would have acted under similar circumstances. "Negligence" is doing something a reasonable child of like age, intelligence and experience would not do under similar circumstances, or failing to do something a reasonable child of like age, intelligence and experience would do under similar circumstances.

JURY INSTRUCTION 15

The mere fact an accident occurred or a party was injured does not mean a party was at fault.

## JURY INSTRUCTION 16

A driver must have his or her vehicle under control. It is under control when the driver can guide and direct its movement, control its speed and stop it reasonably fast.

A violation of this duty is negligence.

## JURY INSTRUCTION 17

"Proper lookout" is the lookout a reasonable person would keep in the same or similar situation. It means more than looking and seeing. It includes being aware of one's movements in relation to things seen or that could have been seen in the exercise of ordinary care.

A violation of this duty is negligence.

## JURY INSTRUCTION 18

When a child is in plain view upon a public street so that the driver of an automobile sees, or in the exercise of ordinary care should see the child in time to reduce her speed and have control of the automobile so as to avoid the child, the driver must realize the child may act without any care or may suddenly and unexpectedly leave a place of safety and move into the path of the automobile. This is one of the circumstances you may consider in determining whether the Defendant was exercising ordinary care in the operation of her automobile.

## JURY INSTRUCTION 19

The term crosswalk means:

1. Any portion of a road distinctly marked for pedestrian crossing by lines or other markings on the surface; or
2. The portion of the road connecting the sidewalks on either side of the intersection.

JURY INSTRUCTION 20

Any pedestrian crossing a road at any point other than a crosswalk shall yield the right of way to all vehicles on the road.

A violation of this law is negligence.

JURY INSTRUCTION 21

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

## JURY INSTRUCTION 22

Damages may be the fault of more than one person. In comparing fault, you should consider all of the surrounding circumstances as shown by the evidence, together with the conduct of Alan Suarez and the Defendant and the extent of the causal relation between their conduct and the damages claimed. You should then determine what percentage, if any, each person's fault contributed to the damages.

## JURY INSTRUCTION 23

The Plaintiff claims the Defendant was at fault in the following particular(s): Negligence.

This ground of fault has been explained to you in other instructions.

The Plaintiff must prove all of the following propositions:

1. The Defendant was negligent in one or more of the following ways:
  - a. Failed to keep her vehicle under control; and/or
  - b. Failed to keep a proper lookout; and/or
  - c. Otherwise failed to use ordinary care in the operation of her vehicle.
2. The Defendant's fault was a cause of the Plaintiff's damage.
3. The amount of damage.

If the Plaintiff has failed to prove any of these propositions, the Plaintiff is not entitled to damages. If the Plaintiff has proved all of these propositions, you will consider the defense of comparative fault as explained in Instruction Nos. 24 through 25.

## JURY INSTRUCTION 24

The Defendant claims Alan Suarez was at fault in the following particular(s): negligence.

This ground of fault has been explained to you in other instructions.

The Defendant must prove both of the following propositions:

1. Alan Suarez was negligent in one or more of the following ways:
  - a. Failed to keep a proper lookout; and/or
  - b. Crossed the road at a point other than a crosswalk and failed to yield the right of way to the Defendant's vehicle; and/or.
  - c. Otherwise failed to use the ordinary care of a child as defined in Instruction No. 14.
2. Alan Suarez's fault was a cause of the Plaintiff's damage.

If the Defendant has failed to prove either of these propositions, the Defendant has not proved his defense. If the Defendant has proved both of these propositions, then you will assign a percentage of fault against the Plaintiff and include Alan Suarez 's fault in the total percentage of fault found by you answering the verdict questions.

## JURY INSTRUCTION 25

After you have compared the conduct of the parties, if you find Alan Suarez was at fault and his fault was more than 50% of the total fault, the Plaintiff cannot recover damages.

However, if you find Alan Suarez's fault was 50% or less of the total fault, then I will reduce the total damages by the percentage of Alan Suarez's fault.

## JURY INSTRUCTION 26

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

1. Alan Suarez's Physical and Mental Pain and Suffering-Past. 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 it not limited to, mental anguish or loss of enjoyment of life.
2. Alan Suarez's Loss of Full Body - Past. 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.
3. Alan Suarez's Physical and Mental Pain and Suffering – Future. The present value of future physical and mental pain and suffering including loss of enjoyment of life.
4. Alan Suarez's Loss of Full Body - Future. 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 cannot be measured by any exact or mathematical standard. You should 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 the Defendant 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 verdict questions.

## JURY INSTRUCTION 27

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.

## JURY INSTRUCTION 28

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Alan Suarez is 65 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Alan Suarez's health, habits, occupation, and lifestyle, when deciding issues of future damages.

## JURY INSTRUCTION 29

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 30

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 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.

## JURY INSTRUCTION 31

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, 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 or programs, or any other application, program, or device to search for or 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 32

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 33

Occasionally, after a jury retires to the jury room, the members have questions. If that should occur, please consider the following:

- A. Words not defined in these instructions should be given their ordinary meanings.
- B. There will be no additional evidence and no additional instructions on the law. These instructions contain all the law you need to decide the case.
- C. I have prepared the instructions after carefully considering this case with the lawyers. I have tried to use language that is generally understandable. Usually, questions about instructions can be answered by carefully re-reading them.

If, however, after considering the above, any of you feel it is necessary to ask a question, it should be presented to the court attendant by the person you have selected as foreperson. The question must be in writing with the foreperson signing same and including the time and date of the question.

I cannot communicate with you without first discussing your question and potential answers with the parties and lawyers. This process naturally takes time and deliberation before I can reply. When I respond, it will be in writing and the foreperson must read the response to the jury. Keep the written question and 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 reached a verdict. Please do not put her on the spot by asking her questions about the case.

JURY INSTRUCTION 34

I am giving you a 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 interrogatories must be signed by your foreman or forewoman.

After deliberating for six hours from 10:30 o'clock a. m. on January 7, 2026, 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 interrogatories must be signed by all seven jurors who agree.

When you have agreed upon the verdict and interrogatories and appropriately signed it, tell the Judicial Assistant.

  
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Joseph W. Seidlin, Judge

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