

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

LINN COUNTY, IOWA

IN THE MATTER OF THE ESTATE OF
FRANCES M. NIELSEN

CASE NO.: ESPR045578

SETH NIELSEN and SAMANTHA
NIELSEN-GRIGGS,

Plaintiffs,

**JURY INSTRUCTIONS AND VERDICT
FORMS**

vs.

STEVEN R. NIELSEN, Individually, and as
Executor of the Frances Nielsen Estate, and
DENNIS L. NIELSEN

Defendants,

INSTRUCTION NO. 1

Members of the Jury:

This is a civil case brought by Plaintiffs Seth Nielsen and Samantha Nielsen-Griggs against Defendants Steven Nielsen, individually and as executor of the Estate of Frances Nielsen, and Dennis Nielsen.

This case involves the following claims:

Plaintiffs allege the Will executed by Frances Nielsen on February 15, 2022 is invalid due to undue influence and lack of capacity.

Plaintiffs allege that the addition of Defendant Steven Nielsen as a joint owner of Frances Nielsen's Community Savings Bank account on December 22, 2021 was the result of undue influence.

Plaintiffs allege that the addition of Defendant Steven Nielsen as a payable on death beneficiary of Frances Nielsen's Heartland Bank & Trust account on February 1, 2022 was the result of undue influence.

Plaintiffs allege that the transfer of funds by Steven Nielsen on Frances Nielsen's Wells Fargo accounts was the result of undue influence.

Plaintiffs allege that the addition of Defendant Steven Nielsen as a joint owner of Frances Nielsen's Farmers State Bank account on May 4, 2022 was the result of undue influence.

Defendants deny the allegations made by Plaintiffs.

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.

INSTRUCTION NO. 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.

Do not be influenced by any personal likes or dislikes, sympathy, bias, prejudices or emotions.

INSTRUCTION NO. 3

Generally, whenever a party must prove something, they must do so by the preponderance of the evidence. Some things must be proven by clear, satisfactory and convincing 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. 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 (e.g. answers to interrogatories, matters which juridical 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. 5

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. 6

Decide the facts from the evidence. Consider the evidence using your observations, reasoning, common sense, and experience. It is your duty to determine the credibility of witnesses, to resolve any conflicts in the evidence, and to draw reasonable inferences from the evidence. In determining the facts, you may have to decide what testimony you believe. You may believe all, part, or none of any witness's 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. Whether a witness has made inconsistent statements.
3. The witness's appearance, conduct, age, intelligence, memory and knowledge of the facts.
4. The witness's interest in the trial, their motive, candor, bias and prejudice.

Try to reconcile any conflicts in the evidence; but if you cannot, accept any evidence you find believable and give it the weight you believe it deserves.

INSTRUCTION NO. 7

You have looked at demonstrative exhibits to help you better understand the evidence. You must base your decision only on the evidence admitted in the courtroom and not upon facts you learned when you looked at demonstrative exhibits.

INSTRUCTION NO. 8

You have heard evidence claiming persons made statements before this trial while under oath and 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 person had made it under oath during the trial.

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

INSTRUCTION NO. 9

Testimony of claimed conversations with a person since deceased should be scrutinized with care, for the very practical reason that the decedent is unable to relate her version or perhaps testify as to the nonexistence as to all of such a conversation.

INSTRUCTION NO. 10

The law presumes a person has the mental ability to make a will and is free from undue influence when making a will. To overcome these presumptions, the plaintiffs must prove one of the following propositions were true at the time the will was made:

1. Frances Nielsen did not have the mental ability to make a will.
2. Frances Nielsen's will was the result of undue influence.

If the plaintiffs have failed to prove either of the above propositions your verdict will be for the defendants. If the plaintiffs have proved one or more of the above propositions, your verdict will be for plaintiffs.

INSTRUCTION NO. 11

A person has the mental ability to make a will if she:

1. Knows a will is being made.
2. Knows the kind and extent of her property.
3. Is able to identify and remember those persons she would naturally give her property to.
4. Knows how she wants to distribute her property.

A will is valid if the person making the will meets the above tests, even if her mental or physical powers are impaired. A person does not have to be able to make contracts or carry on business generally. However, you may consider physical weakness or infirmity, the rational nature of the distribution, along with any other evidence in deciding if a person has the mental ability to make a will.

INSTRUCTION NO. 12

Lack of mental ability to make a will must exist at the time the will was signed. You may consider evidence of Frances Nielsen's condition of mind at other times if you decide such evidence throws some light on her mental ability at the time the will was signed.

INSTRUCTION NO. 13

In order for plaintiffs to prove a will was the result of undue influence, plaintiffs must prove the following propositions:

1. At the time the will was made, Frances Nielsen was susceptible to undue influence.
2. Defendants had the opportunity to exercise influence and carry out the wrongful purpose.
3. Defendants were motivated to influence Frances Nielsen unduly to get an improper favor.
4. The result was clearly brought about by undue influence.

If plaintiffs have failed to prove one or more of these propositions, your verdict will be for the defendants. If plaintiffs proved all of these propositions, your verdict will be for plaintiffs.

INSTRUCTION NO. 14

Undue influence means a person substitutes his or her intentions for those of the person making the will. The will then expresses the purpose and intent of the person exercising the influence, not those of the maker of the will. Undue influence must be present at the very time the will is signed and must be the controlling factor. The person charged with exercising undue influence need not be personally present when the will was being made or signed but the person's influence must have been actively working at the time the will was being made and signed.

INSTRUCTION NO. 15

In deciding if there was undue influence, you may consider the following:

1. Dominance over the maker of the will.
2. Whether the condition of the maker's mind was subject to such dominance.
3. Whether the distribution of the maker's property is unnatural, unjust or unreasonable.
4. The activity of the person charged with exercising the undue influence and whether the person had the opportunity and frame of mind to exercise undue influence. Activities may include suggestion, request and persuasion short of controlling the will of the maker, but they do not alone constitute undue influence. Consider such activities along with any other evidence of undue influence.
5. The intelligence or lack of intelligence of the maker of the will.
6. Whether the maker of the will was physically or mentally weak.
7. Whether the person charged with exercising undue influence was the controlling party in a confidential relationship with the maker of the will.
8. Any other facts or circumstances shown by the evidence which may have any bearing on the question.

No one of the above circumstances is more important than any other.

INSTRUCTION NO. 16

A confidential relationship is present when one person has gained the complete confidence of another and purports to act or advise with only the interest of the other party in mind.

INSTRUCTION NO. 17

The burden of proof for Plaintiffs to prove Frances Nielsen did not have the mental ability to make a will or that Frances Nielsen's will was the result of undue influence is by the preponderance of the evidence regardless whether you find a confidential relationship. Therefore, Plaintiffs must prove undue influence or lack of mental ability to make a will only by a preponderance of the evidence.

In the case of a transfer of interest in property during someone's life, the party seeking to set aside a transfer of property during someone's life must prove undue influence by clear, satisfactory and convincing evidence. If the person challenging the transfer can prove the person benefitting from the transfer was in a confidential relationship, the burden shifts to the person in the confidential relationship to prove the fairness of the transaction by clear, satisfactory and convincing evidence.

INSTRUCTION NO. 18

In connection with the claim of Seth Nielsen and Samantha Nielsen-Griggs to set aside transfers made by Frances Nielsen during her lifetime, you first have to find if there was a confidential relationship at the time of the transfers between Steven R. Nielsen and Frances Nielsen, as defined in these instructions.

If you find a confidential relationship existed between Frances Nielsen and Steven Nielsen when Frances Nielsen added Steven Nielsen as a joint owner or payable-on-death beneficiary on her accounts, the burden shifts to Steven R. Nielsen to prove by clear, satisfactory and convincing evidence that Steven R. Nielsen acted in good faith throughout the transaction and Frances Nielsen acted freely, intelligently and voluntarily. If Steven R. Nielsen fails to prove by clear, satisfactory and convincing evidence that Steven R. Nielsen acted in good faith throughout the transaction and Frances Nielsen acted freely, intelligently and voluntarily, the transfers were the result of undue influence.

If you do not find a confidential relationship existed between Frances Nielsen and Steven Nielsen, then Seth Nielsen and Samantha Nielsen-Griggs have the burden to prove by clear, satisfactory and convincing evidence that Steven R. Nielsen exercised undue influence over Frances Nielsen.

INSTRUCTION NO. 19

Evidence is clear, convincing and satisfactory if there is no serious or substantial uncertainty about the conclusion to be drawn from it.

INSTRUCTION NO. 20

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. 21

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. 22

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.

It is important that we have your full and undivided attention during this trial.


INSTRUCTION NO. 23

I am giving you 2 verdict forms. 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 forms must be signed by your foreman or forewoman.

After deliberating for six hours from 4:28 o'clock p.m., on March 12, 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 must be signed by all seven jurors who agree.

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

Submitted this 12th day of March, 2026 at 4:28 p.m.



Michael J. Harris, District Judge
Sixth Judicial District of Iowa