

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

FILED

2025 JUL 23 AM 11:20

KATHERINE PENNETTA,

Plaintiff,

vs.

OB-GYN ASSOCIATES, P.C., and OWEN
MCCARRON, M.D.,

Defendants.

)
)
)
)
)
)
)
)
)
)

LAW NO. LACV095014

JURY INSTRUCTIONS
AND VERDICT FORM

LINN COUNTY, IOWA

INSTRUCTION NO. 1

This is a medical malpractice case. Plaintiff Katherine Pennetta has sued Dr. Owen McCarron and his employer OG-GYN Associates, P.C. Plaintiff alleges Dr. McCarron was negligent in his care and treatment of Plaintiff. Plaintiff further claims as result of this alleged negligence, she has been damaged.

Defendants deny that Dr. McCarron was negligent in any respect and deny that his care caused any damage to Plaintiff.

Do not consider this summary as proof of any claim. This brief statement of the case is not evidence and is only a general summary that is not intended to influence you either way. 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. 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. 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.

INSTRUCTION NO. 4

You shall base your verdict only upon the evidence in 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.

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. 5

Certain testimony has been introduced into evidence from a deposition. A deposition is testimony taken under oath before the trial and preserved in writing and sometimes by video recording. Consider that testimony as if it had been given in court.

INSTRUCTION NO. 6

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. 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's education and experience, the reasons given for the opinion, and all the other evidence in the case.

INSTRUCTION NO. 8

The fact that OB-GYN Associates, P.C. 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. 9

Physicians who hold themselves out as specialists must use the degree of skill, care and learning ordinarily possessed and exercised by specialists in similar circumstances.

A violation of this duty is negligence.

INSTRUCTION NO. 10

You are to determine the standard of care (the degree of skill, care, and learning required), 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. 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

You must decide whether each claimed harm to Plaintiff is within the scope of Dr. McCarron's liability. A claimed harm is within the scope of a defendant's liability if it was among the potential harms that made the defendant's conduct negligent. In evaluating the potential harms of conduct, you must consider both the foreseeable probability of the harm and its foreseeable severity.

A harm is within the scope of liability when it arises from the same general types of danger that the defendant should have taken reasonable steps to avoid. A claimed harm is not within the scope of a defendant's liability when the defendant's conduct was of a type that does not generally increase the risk of that harm.

INSTRUCTION NO. 13

Plaintiff must prove all of the following propositions:

1. Dr. McCarron was negligent in one or more of the following ways:
 - a. By attempting to perform a hysterectomy on Katherine Pennetta, and/or
 - b. By choosing to enter through Katherine Pennetta's umbilicus instead of her left upper quadrant.
2. The negligence was a cause of damage to the Plaintiff.
3. The damage was within the scope of Defendant's liability.
4. The amount of damage.

If Plaintiff has failed to prove any of these propositions, she is not entitled to damages. If

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

INSTRUCTION NO. 14

The mere fact that a party has suffered injury does not mean another party was negligent.

INSTRUCTION NO. 15

A physician's conduct must be viewed in light of the circumstances existing at the time of treatment and not retrospectively.

INSTRUCTION NO. 16

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

1. Past physical and mental pain and suffering.
2. Past loss of function of the mind and body.
3. Future physical and mental pain and suffering.
4. Future loss of function of the mind and body.

The amount you assess for physical and mental pain and suffering in the past and future and loss of function of the mind or 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. 17

Loss of mind and body is the inability of a particular part of the mind or the body to function in a normal manner.

Past loss of function of the mind and body is measured from the date of injury to the present time.

Future loss of function of the mind and body is calculated as the present value of future loss of function of the mind or the body.

INSTRUCTION NO. 18

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.

Past physical pain and suffering is calculated from the date of injury to the present time.

Future physical pain and suffering is calculated as the present value of future pain and suffering.

INSTRUCTION NO. 19

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Plaintiff Katherine Pennetta is 22.1 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Katherine Pennetta's health, habits, occupation, and lifestyle, when deciding issues of future damages.

INSTRUCTION NO. 20

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. 21

In arriving at an item of damages 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. 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

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. 24

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 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.

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.

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


INSTRUCTION NO. 25

I am giving you 1 verdict forms 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 4:30 o'clock p.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 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.

Dated this 22nd day of July, 2025



Valerie L. Clay
District Court Judge
Sixth Judicial District of Iowa