

IN THE IOWA DISTRICT COURT IN AND FOR SCOTT COUNTY

MARILYN WILLIAMS,

Plaintiff,

vs.

PETER FRIES, M.D. and EYE SURGEONS
ASSOCIATES, P.C.,

Defendants.

No. LACE135706

JURY INSTRUCTIONS

Members of the Jury:

This is a medical malpractice case. The Plaintiff, Marilyn Williams, was treated by Defendant Dr. Peter Fries and his employer, Eye Surgeons Associates on multiple occasions throughout 2019 and 2020. At various times Dr. Fries prescribed eyedrops or topical medication containing steroids to Ms. Williams. Plaintiff claims that this medication made Ms. Williams' intraocular pressure (IOP) rise. Plaintiff further alleges that Dr. Fries was negligent in not properly responding to the raised IOPs, and that his negligence caused Ms. Williams to develop glaucoma.

The Defendants deny that Dr. Fries was negligent, deny that the medication caused her glaucoma, and allege that Plaintiff is not injured to the extent claimed.

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. 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. 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. 2

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. 3

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 judicial notice was taken, 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. 4

Exhibits have been received in evidence and may be used by you during your deliberations for reference. You are not to tamper with, alter, or destroy any exhibits, and you will return them to the court attendant after your deliberations are concluded by leaving them in the jury room.

Throughout the trial you may have heard reference to “demonstrative exhibits.” A demonstrative exhibit is a visual aid used to help illustrate or assist a witness in explaining their testimony.

INSTRUCTION NO. 5

Certain testimony has been read into evidence from a deposition or presented on video.

A deposition is testimony taken under oath before the trial and preserved in writing. 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' 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

You have heard evidence claiming witnesses made statements before this trial while under oath which were inconsistent with what the witnesses 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 a witness. 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.

INSTRUCTION NO. 10

The fact that Eye Surgeon Associates, P.C. is a corporation should not affect your decision. All person 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. 11

Defendant Peter Fries , M.D. was employed by Eye Surgeon Associates at the time he treated the Plaintiff. Therefore, for purposes of this case, Dr. Fries and Eye Surgeon Associates shall be treated as a single party.

INSTRUCTION NO. 12

The mere fact that an accident occurred or a party was injured does not mean a party was negligent.

INSTRUCTION NO. 13

The conduct of a party is a factual cause of harm when the harm would not have occurred absent the conduct.

If multiple acts occur, each of which alone would have been a factual cause of the physical harm at the same time in the absence of the other acts, each act is regarded as a factual cause of the harm.

INSTRUCTION NO. 14

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, not merely the average skill and care of a general practitioner.

A violation of this duty is negligence.

INSTRUCTION NO. 15

An ophthalmic and reconstructive ophthalmology physician must use the degree of skill, care and learning ordinarily possessed and exercised by other ophthalmic and reconstructive ophthalmology physician in similar circumstances.

A violation of this duty is negligence.

INSTRUCTION NO. 16

You are to determine the standard of care, i.e. the degree of skill, care, and learning required only from the opinions of the medical providers who have testified as to the standard.

You are also to determine the failure to meet the standard of care, if any, only from the opinions of the medical providers who have testified as to such a failure or lack thereof.

Furthermore, you are to determine whether the alleged failure to meet the standard of care, if any, was the cause of Plaintiff's injuries only from the opinions of the medical providers who have testified as experts in this case.

INSTRUCTION NO. 17

A physician's conduct must be viewed in light of the circumstances existing at the time of diagnosis and treatment and not retrospectively. If a physician exercised a reasonable degree of care and skill under the circumstances as they existed, though not as seen in perfect hindsight, then the physician is not liable for malpractice.

INSTRUCTION NO. 18

To prevail on this claim, the plaintiff must prove all of the following propositions:

1. The standard of care, i.e., the degree of skill, care, and learning ordinarily possessed and exercised by physicians similar to Dr. Fries under circumstances similar to those presented in this case.
2. Dr. Fries. was negligent by failing to meet the standard of care in one or more of the follow ways:
 - a. Failing to properly address Plaintiff's high eye pressure;
 - b. Continuing to prescribe medication containing steroids when he knew that Plaintiff was a steroid responder.
 - c. Failing to address Plaintiff's glaucoma.
3. Dr. Fries' negligence, if any, was a cause of the plaintiff's damages.
4. 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, the plaintiff is entitled to damages in some amount.

INSTRUCTION NO. 19

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

Loss of function of the body from the date of injury to the present time. Loss of body is the inability of a particular part of the body to function in a normal manner.

The present value of future loss of function of the body.

Mental pain and suffering from the date of injury to the present time.

Mental pain and suffering may include, but is not limited to, mental anguish or loss of enjoyment of life.

The present value of future mental pain and suffering.

The amount you assess for mental pain and suffering in the past and future and 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. 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

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Marilyn Williams is 12.3 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Marilyn Williams's health, habits, occupation, and lifestyle, when deciding issues of future damages.

INSTRUCTION NO. 22

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 damages.

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

Occasionally, jurors will have questions after they begin deliberating. If that should occur, please consider the following:

1. Words not defined in these instructions should be given their ordinary meaning.
2. There will be no additional evidence and I cannot comment to you about evidence.
3. If possible, I will meet with you after you reach a verdict and answer your questions about the trial process.
4. If you ask me a question during your deliberations, your foreperson must put it in writing and give it to the court attendant, who will deliver it to me. Never attempt to communicate with me by any means other than a signed writing. You are not permitted to tell me or anyone else how you stand numerically or otherwise until you have reached a unanimous verdict.

After receiving your question, I will contact the lawyers and conduct a hearing with them out of your presence. Only then will you receive a written answer. Considerable time may go by between question and answer. Experience shows that most jury questions can be answered by carefully re-reading these instructions. Doing so may save considerable time for all involved.

If, after considering these matters, you still wish to ask a question, follow the procedure just described. Save your questions and the answer and return them with these instructions when you return your verdict.

INSTRUCTION NO. 25

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. 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.

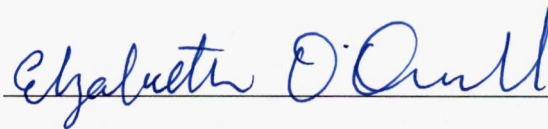
It is important that we have your full and undivided attention during this trial.

INSTRUCTION NO. 27

I am giving you one verdict form with special interrogatories. 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 presiding juror.

After deliberating for six hours from 5:32 o'clock p.m. on August 22, 2025, 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.

A handwritten signature in blue ink, reading "Elizabeth O'Donnell", written over a horizontal line.

Elizabeth O'Donnell, Judge

Seventh Judicial District