

IN THE IOWA DISTRICT COURT IN AND FOR BLACK HAWK COUNTY

THOMAS BARRETT,

Plaintiff,

vs.

ROBERT PRANGER, M.D. and
FIAT FAMILY MEDICINE, PLLC,

Defendants.

Case No. LACV142253

JURY INSTRUCTIONS

Members of the Jury:

In this case, Plaintiff Thomas Barrett claims that Defendants Robert Pranger, M.D. and Fiat Family Medicine, PLLC were negligent in the treatment which they provided to Plaintiff and this negligence caused damages to Plaintiff. Plaintiff seeks compensation for damages that he claims were caused by Defendants' negligence.

Defendants deny that they were negligent. Defendants deny that their actions were a cause of any damage to Plaintiff. Defendants further deny that the amount of damages sought should be provided to Plaintiff as compensation.

The parties stipulate and agree that for the purpose of deciding these issues, Defendants Robert Pranger, M.D. and Fiat Family Medicine, PLLC should be treated as a single party.

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.

ORIGINAL

INSTRUCTION NO. 1

100.2

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 sympathies, biases, prejudices or emotional reactions. 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 internally held or expressed 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 follow the law in order to do justice.

INSTRUCTION NO. 2

100.3

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. 3

100.4ajd

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 formal agreements concerning a fact or facts made by the parties through their attorneys.
4. Any other matter admitted (for example, answers to interrogatories, matters of 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 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 were not offered and received into evidence are not available to you.

The following are not evidence:

1. Statements, arguments, questions, comments, and reactions 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

100.9

You will decide the facts from the evidence. Consider the evidence using your observations, 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. 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. 5

100.12

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. 6

100.11

An expert witness or 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.

INSTRUCTION NO. 7

100.15

You may have heard evidence claiming Plaintiff Thomas Barrett or Defendant Robert Pranger, M.D. 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 Plaintiff or Defendant had made it under oath during the trial.

If you find such a statement was made and was inconsistent with Plaintiff's or Defendant'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 the party's testimony during the trial if other credible evidence supports it or if you believe it for any other reason.

INSTRUCTION NO. 8

100.6

During this trial you may 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 any interrogatories and any answers to them as if the questions had been asked and answered here in court.

INSTRUCTION NO. 9

Defendant Robert Pranger, M.D. and Defendant Fiat Family Medicine, PLLC are to be treated as a single party for the purposes of these instructions. When these instructions refer to Dr. Pranger, they also refer to Defendant Fiat Family Medicine, PLLC.

INSTRUCTION NO. 10

100.20_{ajd}

The fact that Defendant Fiat Family Medicine, PLLC 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 individual person.

INSTRUCTION NO. 11

700.1
1600.10
400.5

Plaintiff must prove all of the following propositions:

1. The standard of care as explained in Instruction No. 12.
2. Defendants were negligent by failing to meet the standard of care by communicating to University of Iowa Hospitals and Clinics Pain Management Clinic that it was safe not to require a Lovenox bridge after holding Plaintiff's anticoagulation medication.
3. The negligence was a cause of damage to Plaintiff.
4. The amount of damage.

If Plaintiff has failed to prove any of these propositions, Plaintiff is not entitled to damages. If Plaintiff has proved all of these propositions, Plaintiff is entitled to damages in some amount.

INSTRUCTION NO. 12

1600.2

A physician must use the degree of skill, care and learning ordinarily possessed and exercised by other physicians in similar circumstances.

A violation of this duty is negligence.

INSTRUCTION NO. 13

§147.139_{ajd}

You are to determine the standard of care only from the opinions of the physicians who have testified as to this standard.

You are also to determine whether Defendants failed to meet the standard of care only from the opinions of such physicians who have testified as to such failure or the lack thereof.

You are also to determine whether the failure to meet the standard of care, if any, was the cause of Plaintiff's damage only from the opinions of the physicians who have testified in this case.

INSTRUCTION NO. 14

Physicians may disagree in good faith upon what would be the proper treatment or diagnosis of a medical condition in a given situation. It is for the physician to use his or her professional judgment to select which recognized method of treatment to use in a given situation. If you determine that there were two or more alternative courses of action which have been recognized by the medical profession as being within the standard of care, and Defendant Dr. Pranger, in the exercise of his best judgment, elected one of those proper alternatives, then Defendants were not negligent.

INSTRUCTION NO. 15

700.3

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

INSTRUCTION NO. 16

700.8

The mere fact that Plaintiff was injured does not mean that Defendants were negligent.

INSTRUCTION NO. 17

200.1, 200.10, 200.11B,
200.12, 200.13B, 200.7

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

1. Loss of Full Mind and/or Body – Past: Loss of function of the mind and body from the date of injury to the present time. Loss of mind and body is the inability of a particular part of the mind or body to function in a normal manner.
2. Loss of Full Mind and/or Body – Future: The present value of future loss of function of the mind and body.
3. 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 is not limited to, mental anguish, anxiety, embarrassment, a feeling of uselessness, loss of enjoyment of life, or other emotional distress.
4. Physical and Mental Pain and Suffering – Future: The present value of future physical and mental pain and suffering.
5. Future Medical Expenses: The present value of reasonable and necessary hospital charges, doctor charges, prescriptions, and other medical services which will be incurred in the future.

The amount you may assess for physical and mental pain and suffering in the past and future, as well as loss of function of the mind and 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.

Plaintiff 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 questions on the verdict form.

INSTRUCTION NO. 18

200.35B

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 Plaintiff for future losses.

INSTRUCTION NO. 19

1600.20

Any damages which you award for future medical expenses will be reduced by the Court for any such losses which you find will be replaced or paid by insurance, or by governmental, employment, or service benefit programs, or from any other source except the assets of Plaintiff or members of Plaintiff's immediate family. Defendants have the burden to prove these benefits will be available to Plaintiff. You will set forth the amount of any reduction of damages due to replacement or payment by insurance or governmental, employment, or service benefit programs or other sources except the assets of Plaintiff or Plaintiff's immediate family by answering Verdict Question No. 4.

INSTRUCTION NO. 20

200.38_{ajd}

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 will be your item of damage.

INSTRUCTION NO. 21

200.37

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Thomas Barrett is 17.5 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Thomas Barrett's health, habits, occupation, and lifestyle, when deciding issues of future damages.

INSTRUCTION NO. 22

ajd

The Court has not by its instructions or by any ruling made, or by any act done, or by anything said during the trial, or by any facial expression, gesture, or tone of voice, intended or attempted to give any suggestion, indication, or opinion as to what the facts are or what are not the facts, what the proof is or what it is not, or what your verdict should be. During the trial, the Court has ruled upon objections to evidence which have been made by counsel. Such rulings are the sole responsibility of the Court. In your consideration of the case, you will give no significance or weight whatsoever to such rulings. You will consider only the evidence which has been received before you as part of the record in this case.

INSTRUCTION NO. 23

100.21

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

100.23

You may not communicate about this case with anyone, except for the other jurors during your deliberations, 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 must 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.

INSTRUCTION NO. 25

ajd

Occasionally, jurors want to ask questions after they begin deliberating. 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 will meet with you after you reach a verdict, if I can. At that time I will be happy to answer your questions about the trial process.
- D. If you ask me a question during your deliberations, your presiding juror must reduce the question to writing and give it to the court attendant who will deliver it to me. I must then contact the lawyers and conduct a hearing with them, but not in your presence. After that, I will send you a written answer consistent with subparagraphs (A) and (B).

If, after considering these matters, you still wish to ask me a question, follow the procedure outlined here. Then save your written question and written answer I send you and return them with your verdict form when you have completed your deliberations and returned a verdict.

The court attendants who have been working with me on this case are in the same position I am. They have taken an oath not to communicate with you regarding your deliberations except to ask you if you have agreed upon a verdict. Please do not put them on the spot by asking them any questions. You should direct any questions to the Court and not to the court attendants.

INSTRUCTION NO. 26

100.18_{ajd}

Upon retiring you shall select a presiding juror. 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 follow the law in order to do justice.

INSTRUCTION NO. 27

300.1

I am giving you one verdict form containing several 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 presiding juror.

After deliberating for six hours from 11:20 o'clock PM, 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 the form, please tell the court attendant.

Dated May 29, 2025.



Andrea Dryer, Judge
First Judicial District of Iowa