

IN THE IOWA DISTRICT COURT FOR FAYETTE COUNTY

CONNIE JEAN KRIENER, as Executor)	
of the MARVIN LUKE KRIENER)	CASE NO. LACV054326
ESTATE and CONNIE JEAN)	
KRIENER, Individually,)	
)	DEFENDANTS' PROPOSED JURY
Plaintiffs,)	INSTRUCTIONS
)	
vs.)	
)	
URBAN KRIENER AND PATRICIA)	
KRIENER,)	
)	
Defendants.)	
_____)	

COME NOW the Defendants and hereby request the following proposed jury instructions.

/s/ David L. Riley

David L. Riley AT0006610

For

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PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause by:

☐ U.S. Mail, prepaid
☐ Facsimile
☐ Hand delivery
☒ EDMS

to each of the attorneys of record herein and any pro se parties at their respective addresses as disclosed in the pleadings as prescribed in Rule 1.442 on the 27th day of September, 2016.

/s/ Emily Zeets

The Defendants request the following Iowa Uniform Civil Jury Instructions without substantial modification:

<u>No.</u>	<u>Title</u>
100.2	Duties Of Judge And Jury, Instructions As Whole
100.3	Burden Of Proof, Preponderance Of Evidence
100.4	Evidence
100.5	Deposition Testimony
100.6	Interrogatories
100.7	Requests For Admissions
100.8	Stipulated Testimony
100.9	Credibility Of Witnesses
100.10	Viewing
100.15	Statements By A Party Opponent
100.18	General Instruction To Jury
100.21	Cautionary Instruction - Juror's Notes
100.23	Use Of Electronic Devices
200.14	Elements - Death - Damages Recovered By Personal Representatives
200.15	Present Worth Of The Value Of The Estate
200.16	Burial Expenses
200.19	Services - Spousal Consortium
200.21(A)	Considerations - Loss Of Value Of The Estate
200.21(C)	Considerations – Loss Of Consortium

200.35B	Definition of Present Value
200.36	Mortality Tables – Death Cases
200.38	Quotient Verdict
600.7	Control - Common Law
700.2	Ordinary Care – Common Law Negligence - Defined
700.3	Cause – Defined
700.3A	Scope of Liability – Defined

STATEMENT OF THE CASE

Members of the Jury:

In this case Connie Jean Kriener, on behalf of herself, individually, and as Executor of the Estate of Marvin Luke Kriener, seeks to recover damages for the death of Marvin Kriener. Marvin Kriener died in a tractor accident on June 29, 2013. At the time of his accident Marvin Kriener was operating a tractor owned by Defendant Urban Kriener. Connie Kriener contends that the accident was the fault of Urban and Patricia Kriener, and is seeking damages, on behalf of herself and Marvin's Estate, for his death.

Urban and Patricia Kriener have denied that they were at fault for Marvin's death, and have claimed that if anyone is at fault it is Marvin.

Do not consider this summary as proof of any claim. Decide the facts from the evidence and apply the law which I now give you.

PROPOSED INSTRUCTION NO. 1

In these instructions I will be using the term “fault.” Fault means one or more acts or omissions toward one’s self or toward another which constitutes negligence.

PROPOSED INSTRUCTION NO. 2

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

PROPOSED INSTRUCTION NO. 3

After you've compared the conduct of all the parties, if you find that Marvin Kriener was at fault, and that his fault was more than 50% of the total fault, Connie Kriener, individually or as Executor of Marvin Kriener's Estate, cannot recover damages.

However, if you find that Marvin Kriener's fault was 50% or less of the total fault, then I will reduce the total damages suffered by Connie Kriener or the Marvin Kriener Estate by the percentage of Marvin's fault.

PROPOSED INSTRUCTION NO. 4

Urban and Patricia Kriener claim that Marvin Kriener was at fault at the time of this accident because he lost control of the tractor he was operating at the time of the accident, and that loss of control led to the tractor entering the ditch and all of the damages that followed.

This ground of fault (i.e. loss of control) has been explained to you in other instructions.

To prevail on this affirmative defense, Urban Kriener and Patricia Kriener must prove both of the following propositions:

1. Marvin Kriener lost control of the tractor at the time of the accident.
2. Marvin Kriener's loss of control was a cause of the accident and the resulting damages.

If Urban Kriener and Patricia Kriener have failed to prove either of these propositions, then they have not proven their affirmative defense of comparative fault. If Urban Kriener and Patricia Kriener have proved both of these propositions, then you will assign a percentage of fault to Marvin in the Verdict Form and include that fault in the total percentages of fault found by you in answering the special verdicts.

PROPOSED INSTRUCTION NO. 5

The mere fact that an accident occurred or that Marvin Kriener died in this accident does not mean that any of Marvin Kriener, Patricia Kriener or Urban Kriener were at fault for the accident, and you are not obligated to so find.

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KRIENER, Individually,)	
)	
Plaintiffs,)	VERDICT FORM
)	
vs.)	
)	
URBAN KRIENER AND PATRICIA)	
KRIENER,)	
)	
Defendants.)	
_____)	

We find the following verdict on the questions submitted to us:

Question No. 1: Was Urban Kriener at fault?

Answer "yes" or "no."

ANSWER: _____

[If your answer is "no," proceed to Question 3. If your answer is "yes," proceed to Question 2.]

Question No. 2: Was the fault of Urban Kriener a cause of any item of damage to Connie Kriener and/or the Marvin Kriener Estate?

Answer "yes" or "no."

ANSWER: _____

[If your answer is "no," do not assign any fault to Urban Kriener in answer to Question No. 7.]

Question No. 3: Was Patricia Kriener at fault?

Answer "yes" or "no."

ANSWER: _____

[If your answer to this Question is "no," and you have answered either Question 1 or 2 in the negative, do not answer any further questions. If your answer to this Question is

“yes,” proceed to Question 4.]

Question No. 4: Was Patricia Kriener’s fault a cause of any damage sustained by Connie Kriener or the Marvin Kriener Estate?

Answer “yes” or “no.”

ANSWER: _____

[If your answer to this Question is “no,” do not assign any fault to Patricia Kriener in the answer to Question No. 7. If you answered either Question 1 or 2 in the negative, and have also answered this Question in the negative, do not answer any further questions.]

Question No. 5: Was Marvin Kriener at fault?

Answer “yes” or “no.”

ANSWER: _____

[If your answer to this Question is “no,” do not answer Question No. 6, and proceed to Question No. 7, but do not assign any fault to Marvin Kriener.]

Question No. 6: Was the fault of Marvin Kriener a cause of any damages sustained by Connie Kriener or the Marvin Kriener Estate?

Answer “yes” or “no.”

ANSWER: _____

[If your answer to this Question is “no,” do not assign any fault to Marvin Kriener in the answer to Question 7.]

Question No. 7: Using 100% as the total combined fault of Urban Kriener, Marvin Kriener and Patricia Kriener, which was a cause of damage to either Connie Kriener or the Marvin Kriener Estate, what percentage of such combined fault do you assign to Marvin Kriener and what percentage of such combined fault do you assign to Urban Kriener or Patricia Kriener?

ANSWER:	Marvin Kriener	_____	%
	Urban Kriener	_____	%
	Patricia Kriener	_____	%
	TOTAL	100	%

[If you find Marvin Kriener to be more than 50% at fault, do not answer Question No. 8.]

Question No. 8: State the amount of damages sustained by Connie Kriener or the Marvin Kriener Estate as a result of Defendants' fault as to each of the following items of damage. Do not take into consideration any reduction of damages due to Marvin Kriener's fault. If the Marvin Kriener Estate or Connie Kriener have failed to prove any item of damage, or has failed to prove that that item of damage was caused by the fault of Urban or Patricia Kriener, enter 0 for that item.

1.	Present worth of the value of the future estate:	\$ _____
2.	Burial expense:	\$ _____
2.	Past spousal consortium:	\$ _____
3.	Future spousal consortium:	\$ _____
TOTAL (add the separate items of damage)		\$ _____

FOREMAN OR FOREWOMAN*

*To be signed only if verdict is unanimous.

Juror**

Juror**

Juror**

Juror**

Juror**

Juror**

Juror**

**To be signed by the jurors agreeing to the verdict after six hours or more of deliberation.