

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

NIKKI L. HAMILTON and
CRAIG W. HAMILTON,
Plaintiff,

v.

GARY W. SMITH,
Defendant.

2025 MAY -1 11:08:47
CLERK DISTRICT COURT CASE NO. LACL159010

**STATEMENT OF THE CASE, JURY
INSTRUCTIONS AND VERDICT
FORM**

MEMBERS OF THE JURY:

In this case, the Plaintiffs, Nikki L. Hamilton and Craig W. Hamilton, assert claims for damages arising from injuries alleged to have been sustained as the result of a motor vehicle collision that occurred on August 26, 2022. On that date, Plaintiff Nikki Hamilton, was driving her motor vehicle with Plaintiff ~~Craig~~ ^{Craig} Hamilton as her passenger and headed northbound on 19th Street nearing its intersection with University Avenue in Des Moines, Polk County, Iowa. At the same place and time, Defendant Gary W. Smith was driving his motor vehicle eastbound on University Avenue nearing its intersection with 19th Street in Des Moines, Polk County, Iowa. As the parties reached the intersection both proceeded through the intersection and collided with one another.

Plaintiffs alleged that Defendant was negligent in the operation of his motor vehicle and that his negligence caused the collision and caused them injuries and damages.

Defendant denies that he was negligent in the operation of his motor vehicle, denies that his negligence caused the accident, disputes the cause,

nature and extent of Plaintiffs' injuries and damages, and asserts that his negligence, if any, should be compared with the negligence of Plaintiff Nikki Hamilton.

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 these instructions together with the preliminary instructions I gave you at the outset of the trial and any verbal instructions I gave you during the trial because no one instruction includes all of the applicable law.

The order in which I give you 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. Because you are making very important decisions in this case, you are to evaluate the evidence carefully and avoid decisions based on generalizations, gut feelings, prejudices, sympathies, stereotypes, or 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 into evidence.

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

Certain testimony has been read into evidence from a deposition or played by videotape. 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. 5

During this trial, you have heard the word "interrogatory." An interrogatory is a written question asked by one party or 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

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. Whether a witness has made inconsistent statements.

3. The witnesses' appearance, conduct, age, intelligence, memory and knowledge of the facts.
4. The witnesses' 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 heard testimony from people 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.

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. 8

You have heard evidence claiming the Plaintiffs and/or the Defendant 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 that witness had made those statements under oath during trial.

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

INSTRUCTION NO. 9

The Plaintiffs must prove all of the following propositions:

1. Defendant was negligent in one or more of the following ways:
 - a. Failure to yield at a red light;
 - b. Failure to keep a proper lookout;
 - ^c/~~d~~. Failure to keep his vehicle under control;
 - ^d/~~e~~. Failure to exercise ordinary care.
2. The negligence was a cause of damage to the Plaintiffs.
3. The amount of damage.

If the Plaintiffs have failed to prove any of these propositions, the plaintiffs are not entitled to damages. If the Plaintiffs have proved all of these propositions, the Plaintiffs are entitled to damages in some amount.

INSTRUCTION NO. 10

Defendant claims Plaintiff Nikki Hamilton was at fault in one or more of the following ways:

- a. Failure to yield at a red light;
- b. Failure to keep a proper lookout;
- c. Failure to keep her vehicle under control;
- d. Failure to exercise ordinary care.

The grounds of fault will be explained to you in other instructions.

Defendant must prove both of the following propositions:

- 1. Nikki Hamilton was at fault. In order to prove fault, Defendant must prove one of the above-referenced elements.
- 2. Nikki Hamilton's fault was a cause of Plaintiffs' damage.

If Defendant has failed to prove either of those propositions, Defendant has not proved his defense of comparative fault. If Defendant has proven both of these propositions, then you will assign a percentage of fault against Nikki Hamilton and include the fault of Nikki Hamilton in the total percentage of fault found by you answering the special verdicts.

INSTRUCTION NO. 11

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

As used in these instructions, the term "fault" means one or more acts or omissions towards the person of another which constitutes negligence.

As used in these instructions, the term "negligence" means failure to use ordinary care. Ordinary care is the care which a reasonably careful person would use under similar circumstances. "Negligence" is doing something a reasonably careful person would not do under similar circumstances, or failing to do something a reasonably careful person would do under similar circumstances.

INSTRUCTION NO. 12

The mere fact an accident occurred or a party was injured does not mean a party was at fault.

INSTRUCTION NO. 13

Both drivers had a right to use the road, but each had to respect the rights of the other. Each driver could assume the other would obey the law until they knew, or in the exercise of ordinary care, should have known the other driver was not going to obey the law.

INSTRUCTION NO. 14

When signals display different colored lights:

1. Vehicles facing a signal displaying a green light may go straight, turn right or turn left through the intersection unless specifically prohibited. However, vehicles shall yield the right-of-way to other vehicular and pedestrian traffic lawfully within the intersection at the time the signal is exhibited.
2. Vehicles facing a signal displaying a circular yellow or yellow arrow light are warned that the related green movement is stopped and vehicles should no longer proceed into the intersection and shall stop. If the stop cannot be made safely, the vehicle may go cautiously through the intersection.
3. Vehicles facing a signal displaying a circular red light shall stop and remain stopped [until an indication to proceed by signal is shown] [the signal is green]. However, unless prohibited by a sign, vehicles may cautiously enter the intersection to make a right turn from the right lane of traffic, or a left turn from the left lane of a one-way street to left-most lane of traffic on a one-way street. Any turn shall be made so that it does not interfere with other vehicles or pedestrians lawfully using the intersection.
4. Vehicles facing a signal displaying a green arrow light alone or with another official control signal may cautiously enter the intersection and go in the direction indicated by the arrow, but shall yield the right-of-way to other vehicles and pedestrians lawfully within the intersection. Stopping means stopping at the first opportunity at either the clearly marked stop line or before entering the cross-walk or before entering the intersection.

A violation of this law is negligence.

INSTRUCTION NO. 15

"Proper lookout" is the lookout a reasonable person would keep in the same or similar situation. It means more than looking and seeing. It includes being aware of the operation of the driver's vehicle in relation to what the driver saw or should have seen in the exercise of ordinary care.

A violation of this duty is negligence.

INSTRUCTION NO. 16

When two vehicles enter an intersection at approximately the same time so that if both proceed without regard to the other a collision is reasonably to be expected, the vehicle on the left shall yield the right-of-way to the vehicle on the right.

A violation of this duty is negligence.

INSTRUCTION NO. 17

A driver must have his or her vehicle under control. It is under control when the driver can guide and direct its movement, control its speed and stop it reasonably fast.

A violation of this duty is negligence.

INSTRUCTION NO. 18

A driver operating a vehicle must have it under control and shall reduce its speed to a reasonable and proper rate when approaching and traveling through a crossing or intersection of highways.

A violation of this law is negligence.

INSTRUCTION NO. 19

Damages may be the fault of more than one person. In comparing fault, you should consider all the surrounding circumstances as shown by the evidence, together with the conduct of Nikki Hamilton and Gary Smith, and the extent of the causal relations between their conduct and the damages claimed. You should then determine what percentage, if any, each person's fault contributed to the damages.

INSTRUCTION NO. 20

After you have compared the conduct of all parties, if you find Plaintiff Nikki Hamilton was at fault and Ms. Hamilton's fault was more than 50% of the total fault, then Plaintiff Nikki Hamilton cannot recover damages.

However, if you find that Plaintiff Nikki Hamilton's fault was 50% or less of the total fault, then I will reduce the total damages for Plaintiff Nikki Hamilton by the percentage of Ms. Hamilton's fault.

INSTRUCTION NO. 21

When you consider Plaintiff Craig Hamilton's claim for injuries received as a passenger you will not charge Plaintiff Craig Hamilton with the fault of Plaintiff Nikki Hamilton. Also, the fault of Plaintiff Nikki Hamilton shall not be considered in the 100% total of causal fault of Plaintiff Craig Hamilton's damages and I will not reduce the damages awarded to him.

INSTRUCTION NO. 22

If you find Plaintiffs Nikki Hamilton and/or Craig Hamilton are entitled to recover damages, you shall consider the following items (as to each Plaintiff):

1. past medical expenses;
2. past physical and mental pain and suffering;
3. past loss of full mind and body;
4. future physical and mental pain and suffering; and,
5. future loss of full body and mind.

The amount you assess for past and future physical and mental pain and suffering and past and future loss of function of the mind and body 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 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. 23

If you find Plaintiff, Nikki L. Hamilton, had a pre-existing neck condition, and/or Plaintiff, Craig W. Hamilton, had a pre-existing back condition before this incident and those conditions were aggravated or exacerbated by this incident causing further suffering or disability, then they are entitled to recover damages caused by the aggravation. They are not entitled to recover for any physical ailment or disability which existed before this incident or for any injuries or damages which they now have which were not caused by the Defendant's actions.

INSTRUCTION NO. 24

If you find Plaintiff, Nikki L. Hamilton, and/or Plaintiff, Craig W. Hamilton, were injured by another act after this incident, they cannot recover for any later injury or aggravation of injury not caused by this incident.

INSTRUCTION NO. 25

With respect only to Plaintiff Nikki Hamilton, if you find she had a pre-existing condition with her cervical spine making her more susceptible to injury than a person in normal health, then the Defendant is responsible for all injuries and damages to her neck which were experienced by her after the accident to the extent they were caused by Defendant's actions, even though the injuries claimed produce a greater injury than those which might have been experienced by a normal person under the same circumstances.

INSTRUCTION NO. 26

If you find Plaintiff or Plaintiffs are entitled to past medical expenses, they may recover the reasonable cost of necessary hospital charges, doctor charges, prescriptions, and other medical services from the date of injury to the present time.

In determining the reasonable cost of necessary hospital charges, doctor charges, prescriptions, and other medical services, you may consider the amount charged, the amount actually paid, or any other evidence of what is reasonable and proper for such medical expenses.

INSTRUCTION NO. 27

If you find Plaintiff or Plaintiffs are entitled to past loss of full mind and body, they may recover for 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.

INSTRUCTION NO. 28

If you find Plaintiff or Plaintiffs are entitled to future loss of full mind and body, they may recover the present value of future loss of function of the mind and body.

INSTRUCTION NO. 29

If you find Plaintiff or Plaintiffs are entitled to past physical and mental pain and suffering, they may recover for 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 or loss of enjoyment of life.

INSTRUCTION NO. 30

If you find Plaintiff or Plaintiffs are entitled to future physical and mental pain and suffering, they may recover the present value of future physical and mental pain and suffering.

INSTRUCTION NO. 31

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. 32

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Plaintiffs. Plaintiff, Nikki L. Hamilton is fifty-seven (57) years old and Plaintiff, Craig W. Hamilton, is sixty (60) years old.

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Nikki Hamilton is an additional 26.57 years.

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Craig Hamilton is an additional 20.64 years.

The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Nikki Hamilton and Craig Hamilton's health, habits, occupation, and lifestyle, when deciding issues of future damages.

INSTRUCTION NO. 33

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 damage.

INSTRUCTION NO. 34

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. 35

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. 36

You may not communicate about this case before reaching your verdict. This includes cell phones, and electronic media such as text messages, Facebook, Instagram, TikTok, Snapchat, LinkedIn, YouTube, X (formerly Twitter), email, etc.

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 maps or Google Earth or any other program or device to search for or to 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.

INSTRUCTION NO. 37

Occasionally, after a jury retires to the jury room, the members have questions. I have prepared the instructions after carefully considering this case with the parties and lawyers. I have tried to use language which is generally understandable. Usually questions about instructions can be answered by carefully re-reading them. If however, any of you feel it necessary to ask a question, you must do so in writing and deliver the question to the court attendant. I cannot communicate with you without first discussing your question and potential answer with the parties and lawyers. This process naturally takes time and deliberation before I can reply. The foreperson shall

read my response to the jury. Keep the written question and response and return it to the Court with the verdict.

INSTRUCTION NO. 38

The court attendant who has been working with me on this case is in the same position as I am. She has taken an oath not to communicate with you except to ask if you have agreed upon a verdict. Please do not put her on the spot by asking her any questions. You should direct your questions to the Court and not to the court attendant.

INSTRUCTION NO. 39

I am giving you one verdict form. 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 interrogatories must be signed by your foreman or forewoman.

After deliberating six (6) hours from 2:55 o'clock p. m., excluding meals or recesses outside your jury room, then it is necessary that only seven (7) of you agree to the verdict. In that case, the verdict must be signed by all seven (7) jurors.

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

Submitted this 30th day of April, 2026 at 2:55 p. m.



JUDGE NICHOLAS A. BAILEY