

IN THE IOWA DISTRICT COURT IN AND FOR PAGE COUNTY

ESTATE OF PAYTON MONTANA
CASTEEL, by and through its
administrator, Anna D. Hutt; and
TIRAN CASTEEL, individually,

Plaintiffs,

vs.

PATRICIA CHERIE WRAY,

Defendant.

Civil Case No. LACV104785

PLAINTIFFS' PROPOSED JURY
INSTRUCTIONS

COMES NOW, the Plaintiffs, the Estate of Payton Montana Casteel, by and through its administrator, Anna D. Hutt; and Tiran Casteel, individually, and hereby propose the following Jury Instructions and Verdict Forms be submitted to the jury in this matter. The proposed instructions, unless noted otherwise, are from the June 2016 Iowa Civil Jury Instructions.

Some instructions will need to be modified or deleted based on the evidence at trial.

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PROOF OF SERVICE

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

<input type="checkbox"/>	personal service	<input checked="" type="checkbox"/>	first class mail
<input type="checkbox"/>	certified mail, return receipt requested	<input type="checkbox"/>	facsimile
<input type="checkbox"/>	Airborne Express (overnight)	<input type="checkbox"/>	email
		<input checked="" type="checkbox"/>	e-filing

on the 24th day of July, 2017.

I declare that the statements above are true to the best of my information, knowledge and belief.

s/ Adam Witosky

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ATTORNEY FOR DEFENDANT

Tiran Casteel

PLAINTIFF

Anna Hutt

EXECUTOR

INSTRUCTION NO. _____
Statement of the Case

Members of the Jury: This case arises from a vehicle collision which occurred on May 21, 2014, as Payton Montana Casteel was operating a motorcycle on the public highway. The Defendant, Patricia Cherie Wray, was operating her van on the same way. The vehicles collided, resulting in Payton Montana Casteel's death.

The Estate of Payton Montana Casteel alleges his death was caused by Ms. Wray's negligent operation of her vehicle. Tiran Casteel, the biological father of Payton Montana Casteel, alleges Ms. Wray's actions resulted in his losing the services, companionship, society, affection, aid, and assistance of his son.

Ms. Wray denies any negligence on her part caused the collision, and has asserted the affirmative defense of comparative fault.

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.

Iowa Civil Jury Instruction 100.1 (modified)

INSTRUCTION NO. _____
Duties of Judge and Jury, Instructions As Whole

My duty is to tell you what the law is. Your duty is to accept and apply this law.

You must consider all 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. 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.

Iowa Civil Jury Instruction 100.2

INSTRUCTION NO. _____
Burden of Proof, Preponderance of Evidence

Whenever a party must prove something they must do so by the preponderance of the evidence. Preponderance of the evidence simply means the greater weight of 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. You should find for the party who presents the greatest quantity of evidence which you find credible.

Iowa Civil Jury Instruction 100.3 (modified)

Bryan v. Chicago, R. I. & P. R. Co., 19 N.W. 295, 295 (Iowa 1884) (Preponderance of the evidence “simply means the greater weight of evidence” and directs the jury to find for the party “adduces thereon the greatest quantity of credible evidence, as weighed in their own minds..”

INSTRUCTION NO. _____
Evidence

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, and 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.

Iowa Civil Jury Instruction 100.4

INSTRUCTION NO. _____
Deposition Testimony

Certain Testimony has been read into evidence from a deposition. 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.

Iowa Civil Jury Instruction 100.5

INSTRUCTION NO. _____
Interrogatories

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

Iowa Civil Jury Instruction 100.6

INSTRUCTION NO. _____
Credibility of Witnesses

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.

Iowa Civil Jury Instruction 100.9

INSTRUCTION NO. _____
Hypothetical Question, Expert Testimony

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.

Iowa Civil Jury Instruction 100.11

INSTRUCTION NO. _____
Opinion Evidence, Expert Witness

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.

Iowa Civil Jury Instruction 100.12

INSTRUCTION NO. _____
Contradictory Statement, Non-party, Witness Not Under Oath

You have heard evidence claiming [name of witness] made statements before this trial while not under oath which were inconsistent with what the witness said in this trial.

Because the witness did not make the earlier statements under oath, you may use them only to help you decide if you believe the witness.

Decide if the earlier statements were made and whether they were inconsistent with testimony given at trial. You may disregard all or any part of the testimony if you find the statements were made and they were inconsistent with the testimony given at trial, but you are not required to do so.

Do not disregard the testimony if other evidence you believe supports it or if you believe it for any other reason.

Iowa Civil Jury Instruction 100.13

INSTRUCTION NO. _____
Contradictory Statement, Non-party, Witness Under Oath

You have heard evidence claiming [name of witness] made statements before this trial while under oath which were inconsistent with what [name of witness] 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 [name of non-party 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.

Iowa Civil Jury Instruction 100.14

INSTRUCTION NO. _____
Statements by a Party Opponent

You have heard evidence claiming [name of party] 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 [name of party] had made it under oath during the trial.

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

Iowa Civil Jury Instruction 100.15

INSTRUCTION NO. _____
General Instruction to Jury

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.

Iowa Civil Jury Instruction 100.18

INSTRUCTION NO. _____
Cautionary Instruction - Juror's Notes

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.

Iowa Civil Jury Instruction 100.21

INSTRUCTION NO. _____
Use of Electronic Devices

You may not communicate about this case before reaching your verdict. This includes communication via cell phones and text messages, as well as through email, Facebook, Twitter, Google Plus, Pinterest, Instagram, Snapchat, Reddit, Vine, LinkedIn, YouTube, 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.

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

Iowa Civil Jury Instruction 100.23

INSTRUCTION NO. _____
Fault - Defined

In these instructions, I will be using the term "fault". Fault means one or more acts or omissions towards the person of the actor or of another which constitutes negligence.

Iowa Civil Jury Instruction 400.1

INSTRUCTION NO. _____
Comparative Fault

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 Payton Montana Casteel and Patricia Cherie Wray, and the extent of the causal relation between their conduct and the damages claimed. You should then determine what percentage, if any, each person's fault contributed to the damages.

Iowa Civil Jury Instruction 400.2

INSTRUCTION NO. _____
Comparative Fault - Effects of Verdict

After you have compared the conduct of all parties, if you find Payton Montana Casteel, was at fault and his fault was more than 50% of the total fault, the Estate of Payton Montana Casteel and Tiran Casteel cannot recover damages.

However, if you find Payton Montana Casteel's fault was 50% or less of the total fault, then I will reduce the total damages to the Estate of Payton Montana Casteel and Tiran Casteel by the percentage of his fault.

Iowa Civil Jury Instruction 400.3

INSTRUCTION NO. _____
Reasonable and Proper

Any person driving a vehicle on a highway shall drive at a careful speed not greater than nor less than is reasonable and proper, having due regard for the traffic, surface and width of the highway and of any other existing conditions.

A violation of this law is negligence.

Iowa Civil Jury Instruction 600.1

INSTRUCTION NO. _____
Overtaking a Vehicle

The driver of a vehicle overtaking another vehicle going in the same direction shall pass to the left at a safe distance, and shall not drive to the right side of the road until safely clear of the overtaken vehicle.

A violation of this law is negligence.

Iowa Civil Jury Instruction 600.14

INSTRUCTION NO. _____
Limitations on Overtaking on the Left

A vehicle shall not be driven to the left side of the center of the road in overtaking and passing another vehicle going in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the safe operation of a vehicle approaching from the opposite direction or a vehicle overtaken.

The overtaking vehicle shall return to the right-hand side of the road before coming within three hundred feet* of a vehicle approaching from the opposite direction.

A violation of this law is negligence.

Iowa Civil Jury Instruction 600.15

INSTRUCTION NO. _____
Duty of Passed Vehicle

The driver of a vehicle being passed shall give way to the right in favor of an overtaking vehicle and shall not increase the vehicle's speed until completely passed by the overtaking vehicle.

A violation of this law is negligence

Iowa Civil Jury Instruction 600.16

INSTRUCTION NO. _____
Overtaking on the Right - Left-Turning Vehicle

The driver of a vehicle may overtake and pass on the right of another vehicle which is making or about to make a left turn. However, no person shall drive off the pavement or on the shoulder of the road in overtaking or passing on the right.

A violation of this law is negligence.

Iowa Civil Jury Instruction 600.17

INSTRUCTION NO. _____
Turning from a Direct Course

A driver shall not turn a vehicle from a direct course on a highway unless the movement can be made with reasonable safety.

A violation of this law is negligence.

Iowa Civil Jury Instruction 600.32

INSTRUCTION NO. _____
When Signal Required - Continuous - Methods of Giving

A driver shall not turn a vehicle from a direct course on a road unless the movement can be made with reasonable safety and after giving an appropriate signal if any other vehicle may be affected by the movement. The signal to turn left must be continuously given during at least the last 300 feet travelled by the vehicle before turning. The signal may be given by hand or by a mechanical or electrical turn signal. Turn signals or turn signal devices shall display a white, yellow or amber lamp or lamps on the front of the vehicle, and a red, yellow or amber lamp or lamps on the rear of the vehicle. These signal devices shall be capable of clearly indicating any intention to turn either to the right or to the left, and shall be visible and understandable during both daylight and darkness from a distance of at least 100 feet from the front and rear of the vehicle. Hand signals shall be given by extending hand and arm straight out from the left side of the vehicle for a left-hand turn.

A violation of this law is negligence.

Iowa Civil Jury Instruction 600.33

INSTRUCTION NO. _____
Direct Course – Definition

As used in Instruction No. _____, a 'direct course' on a highway is the motion or movement of the vehicle in the usual or natural course or line of the highway. A direct course will take a vehicle in precisely the direction of the lane of travel it is using on the highway. When a vehicle leaves such lane of travel, including whenever it moves across the center line into the opposite lane of traffic, it is turning from a direct course.

Ruby v. Easton, 207 N.W.2d 10,17-18 (Iowa 1973) ("A 'direct course' on a highway is the motion or movement of the vehicle in the usual or natural course or line of the highway. [Citations omitted.] It is not necessarily a straight course. A direct course will take a vehicle in precisely the direction of the lane of travel it is using on the highway. It follows that when a vehicle leaves such lane of travel it is turning from a direct course.

Thus a vehicle turns from a direct course when it moves across the centerline into the opposite lane of a highway, Wagaman v. Ryan, 258 Iowa 1352, 1357, 142 N.W.2d 413, 416 (1966), when it moves back again, Miller v. Lowe, 220 Iowa 105, 261 N.W. 822 (1935), and when departing from one street to another at an intersection, Johnson v. Kinnan, 195 Iowa 720, 192 N.W. 863 (1923).")

INSTRUCTION NO. _____
Stopping

A driver shall not stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to the driver of any vehicle immediately to the rear when there is opportunity to give the signal. The signal shall be given by either extending the hand and arm downward from the left side of the vehicle or by a brake light constructed and located on the vehicle as to give a signal of intention to stop. The brake light shall be red or yellow and shall be plainly visible and understandable in normal sunlight and at night from a distance of 100 feet to the rear.

A violation of this law is negligence.

Iowa Civil Jury Instruction 600.34

INSTRUCTION NO. _____
Proper Lookout

"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. A driver need not keep a lookout to the rear all the time, but must be aware of the presence of others when the driver's actions may be dangerous to others.

A violation of this duty is negligence.

Iowa Civil Jury Instruction 600.72

INSTRUCTION NO. _____
Duty to Sound Horn

A driver shall sound her horn when reasonably necessary to ensure the safe operation of the vehicle.

A violation of this duty is negligence.

Iowa Civil Jury Instruction 600.97

INSTRUCTION NO. _____
Count I - Negligence- Essentials for Recovery

The Estate of Payton Montana Casteel must prove all the following propositions:

1. Patricia Cherie Wray was negligent in one or more of the following ways:
 - a. in failing to operate her motor vehicle in a reasonable and proper manner;
 - b. in failing to maintain an assured clear distance ahead;
 - c. in failing to drive at a safe and reasonable speed as she approached her turn;
 - d. in failing to maintain control of the motor vehicle and take reasonable precautions as she approached her turn;
 - e. in failing to keep a proper lookout; and
 - f. in failing to act as a reasonable person would under the circumstances then and there existing.
2. The negligence was a cause of damage to Payton Montana Casteel.
3. 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 these propositions, you will consider the defense of comparative fault as explained in Instruction No. _____.

Iowa Civil Jury Instruction 700.1

INSTRUCTION NO. _____
Ordinary Care - Common Law Negligence - Defined

"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.

Iowa Civil Jury Instruction 700.2

INSTRUCTION NO. _____
Cause - Defined

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

Iowa Civil Jury Instruction 700.3

INSTRUCTION NO. _____
Concurrent Cause – Defined

There can be more than one cause of an injury or damage. When the fault of two or more separate parties is so related to an event that their combined fault, when viewed as a whole, is the cause of the event without which the event would not occur, then the fault of each party may be a cause.

Iowa Civil Jury Instruction 700.4

INSTRUCTION NO. _____
Count II - Parental Consortium – Elements

"Parental consortium" is the relationship between parent and child and the right of the parent to the benefits of services, companionship, and society of the child. It does not include the loss of financial support from the injured child, nor mental anguish caused by the child's injury.

Tiran Casteel must prove Payton Montana Casteel's injuries were negligently caused by Patricia Cherie Wray.

A parent is not entitled to damages for loss of parental consortium unless the parent's death has caused a significant disruption or diminution of the parent-child relationship.

Damages for loss of parental consortium are limited in time to the shorter of the parent's or child's normal life expectancy.

Iowa Civil Jury Instruction 200.20 (modified)
Iowa Civil Jury Instruction 200.30 (modified)

Iowa Code §613.15A ("A parent or the parents of a child may recover for the expense and actual loss of services, companionship, and society resulting from injury to or death of a minor child and may recover for the expense and actual loss of services, companionship, and society resulting from the death of an adult child.")

Plowman vs. Fort Madison Community Hospital, 896 N.W.2d 393, 408-09 (Iowa 2017) ("To pursue a claim under [Iowa Code §613.15A], a parent must establish that the child's injury was wrongfully or negligently caused.")

INSTRUCTION NO. _____

Elements - Death of Minor - Damages Recovered by Personal Representative

If you find Anna Hutt, as personal representative of the Estate of Payton Montana Casteel is entitled to recover damages, it is your duty to determine the amount. In doing so you shall consider the following items:

1. Burial Expenses: The interest on the reasonable burial expenses of (decedent) from the time of death until the time when those expenses would be paid. The amount cannot exceed the reasonable cost of the burial.
2. Pre-Death Medical Expenses: The reasonable cost of necessary hospital charges, doctor charges, and medical services from the date of injury to the time of death.

In determining the reasonable cost of necessary [hospital charges, doctor charges, and 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 expense.

3. Pre-Death Physical and Mental Pain and Suffering: Physical and mental pain and suffering from the date of injury to the date of death.

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.

4. Pre-Death - Loss of Full Mind and Body: Loss of function of the mind and body from the date of injury to the date of death.
5. Present Worth of Value Of Estate – Minor: The present value of additional amounts Payton Montana Casteel would reasonably be expected to have accumulated as a result of his own effort from the date he would have reached age eighteen until he had lived out the terms of his life.

The amount you assess for physical and mental pain and suffering and loss of function of 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 the defendant 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. Similarly, damages awarded to one party shall not be included in any amount awarded to another party.

The amounts, if any, you find for each of the above items will be used to answer the special verdicts.

Iowa Civil Jury Instruction 200.26
Iowa Civil Jury Instruction 200.16
Iowa Civil Jury Instruction 200.23
Iowa Civil Jury Instruction 200.24
Iowa Civil Jury Instruction 200.25
Iowa Civil Jury Instruction 200.27

INSTRUCTION NO. _____
Present Worth of Value of Estate – Minor

The present value of additional amounts Payton Montana Casteel would reasonably be expected to have accumulated as a result of his own effort from the date he would have reached age eighteen until he had lived out the terms of his life.

In determining this amount, you may consider:

1. His life expectancy.
2. His health, physical and mental condition.
3. His habits as to industry, thrift and economy.
4. His interest in school.
5. His grades and attendance in school.
6. The occupation of his parents.
7. The uncertainties of life such as ill health, unemployment, increased or decreased earning capacity as age advances.
8. The amount of taxes, both federal and state, which would be payable out of earnings.
9. All other facts and circumstances bearing on the amount he might have accumulated.

Iowa Civil Jury Instruction 200.27

INSTRUCTION NO. _____
Loss of Parental Consortium

Tiran Casteel may recover for the expense and actual loss of services, companionship, and society resulting from injury to or death of Payton Montana Casteel.

In determining loss of companionship and society, you may consider the circumstances of the life of the child including:

1. The child's age, health, strength, intelligence, character, interests and personality.
2. Activities in the household and community.
3. The circumstances of the parent's life.
4. The parent's capabilities and efficiencies in performing the duties as a parent.
5. All other facts and circumstances bearing on the issue.

The amount you assess for loss of services 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 damages must not exceed the amount caused by the defendant 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. Similarly, damages awarded to one party shall not be included in any amount awarded to another party.

The amounts, if any, you find for each of the above items will be used to answer the special verdicts.

Iowa Civil Jury Instruction 200.28A (modified)

Iowa Civil Jury Instruction 200.30 (modified)

Iowa Code §613.15A (“A parent or the parents of a child may recover for the expense and actual loss of services, companionship, and society resulting from injury to or death of a minor child and may recover for the expense and actual loss of services, companionship, and society resulting from the death of an adult child.”)

Wardlow v. City of Keokuk, 190 N.W.2d 439, 446 (Iowa 1971) (quoting Fussner v. Andert, 113 N.W.2d 355, 359 (Minn. 1961) (“We cannot agree that loss of earnings, contributions, and services in terms of dollars represents the only real loss the parent sustains by the death of his child. With the passage of time the significance of money loss has been diminished. Conversely, there is a growing appreciation of the true value to the parent of the rewards which flow from the family relationship and are manifested in acts of material aid, comfort, and assistance which were once considered to be only of sentimental character.”))

INSTRUCTION NO. _____
Definition of Present Value

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.

Iowa Civil Jury Instruction 200.35B

INSTRUCTION NO. _____
Mortality Tables – Death Cases

Standard Mortality Table indicates the normal life expectancy of people who are the same age as Payton Montana Casteel is 61.02 years.

Standard Mortality Table indicates the normal life expectancy of people who are the same age as Tiran Casteel is 28.28 years.

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

Iowa Civil Jury Instruction 200.36

INSTRUCTION NO. _____
Quotient Verdict

In arriving at an item of damage or any percentage of fault, you cannot arrive at a figure by taking down the estimate of each juror as to an item of damage or a percentage of fault, and agreeing in advance that the average of those estimates shall be your item of damage or percentage of fault.

Iowa Civil Jury Instruction No. 200.38

INSTRUCTION NO. _____
Cautionary Instruction – Juror Questions

Occasionally, after a jury retires to the jury room, jurors have questions. These instructions have been prepared carefully after considering this case with the parties and lawyers. I have tried to use language which is generally understandable. Usually questions about instructions are answered by careful re-reading. 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 the question and answer with the parties and lawyers. This process takes time and requires deliberation before I can reply. The foreperson shall read my response to the jury. The written question and response are to be returned to the Court with the verdict.

The court attendant who has been working with me on this case has taken an oath not to communicate with you except to ask if you have agreed upon a verdict. Please do not ask her any questions. You should direct your questions to the Court and not the court attendant.

INSTRUCTION NO. _____
Final Instruction

I am giving you one verdict form containing 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 form and interrogatories must be signed by your foreperson.

After deliberating for six hours from _____, __.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 form must be signed by all seven jurors who agree.

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

IN THE IOWA DISTRICT COURT IN AND FOR PAGE COUNTY

ESTATE OF PAYTON MONTANA
CASTEEL, by and through its
administrator, Anna D. Hutt; and
TIRAN CASTEEL, individually,

Plaintiffs,

vs.

PATRICIA CHERIE WRAY,

Defendant.

Civil Case No. LACV104785

PLAINTIFFS' PROPOSED VERDICT
FORM

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

QUESTION NO. 1: In driving her van on May 21, 2014, did Patricia Cherie Wray fail to exercise the care that a reasonable driver would have exercised in a similar situation?

Yes: _____

No: _____

(If No, proceed to the signature section, otherwise proceed to the next question.)

QUESTION NO. 2: Were damages to the Estate of Payton Montana Casteel and Tiran Casteel proximately caused by the negligent driving of Patricia Cherie Wray?

Yes: _____

No: _____

(If No, proceed to the signature section, otherwise proceed to the next question.)

QUESTION NO. 3: Was Payton Montana Casteel at fault?

Yes: _____

No: _____

(If No, proceed to the signature section, otherwise proceed to the next question.)

QUESTION NO. 4: Were damages to the Estate of Payton Montana Casteel and Tiran Casteel proximately caused by the conduct of Payton Montana Casteel?

Yes: _____

No: _____

(If No, proceed to the signature section, otherwise proceed to the next question.)

QUESTION NO. 5: Using 100% as the total combined fault of Payton Montana Casteel and Defendant Patricia Cherie Wray which was a proximate cause of Plaintiff's damage, what percentage of such combined fault do you assign to the Payton Montana Casteel and what percentage of such combined fault do you assign to the Defendant Patricia Cherie Wray?

ANSWER: Payton Montana Casteel _____%

Patricia Cherie Wray _____%

TOTAL 100%

(If you find Plaintiff to be more than 50% at fault, do not answer Question No. 6)

QUESTION NO. 6: State the amount of damages sustained by the Plaintiff proximately caused by Defendant's fault as to each of the following items of damage. Do not take into consideration any reduction of damages due to Plaintiff's fault. If the Plaintiff has failed to prove any item of damage, or has failed to prove that any item of damage was proximately caused by Defendant's fault, enter "0" for that item.

1. Burial Expenses

\$_____

2. Pre-Death Medical Expenses

\$_____

3. Pre-Death Physical and Mental Pain and Suffering

\$_____

4. Pre-Death Loss of Full Mind and Body

\$_____

5. Present Worth of Value of Estate

\$_____

6. Future Loss of Parental Consortium of Tiran Casteel

\$_____

TOTAL (add the above amounts)

\$_____

FOREWOMAN OR FOREMAN*

* To be signed only if verdict is unanimous

Juror** _____

Juror** _____

Juror** _____

Juror** _____

Juror** _____

Juror** _____

Juror** _____

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