

**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

<p><b>JODI E. SAFRIS and MICHAEL A. SAFRIS, as Co-Guardians and Co-Conservators for THE GUARDIANSHIP AND CONSERVATORSHIP OF R.R.S.,</b></p> <p>Plaintiffs,</p> <p>vs.</p> <p><b>URBANDALE COMMUNITY SCHOOL DISTRICT,</b></p> <p>Defendant.</p>	<p>Case No.: <u>LACL153362</u></p> <p><b>JURY INSTRUCTIONS</b></p> <p>2024 NOV -8 PM 3:59 POLK COUNTY IOWA CLERK DISTRICT COURT FILED</p>
--	---

**MEMBERS OF THE JURY:**

In this case, Plaintiffs, Jodi E. Safris and Michael A. Safris, as Co-Guardians and Co-Conservators for The Guardianship and Conservatorship of R.R.S., claim that Defendant, Urbandale Community School District, was negligent when nude photographs of Riley Safris were exhibited and disseminated during school and Riley Safris was harassed and bullied by her peers following the exhibition and dissemination of the photographs, and when Riley Safris was sexually assaulted during class by a fellow student in the Fall of 2018.

Defendant denies that it was negligent or that its negligence was a cause of Plaintiffs' damages.

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.

**JURY INSTRUCTION NO. 1****Duties of Judge and Jury, Instructions as a 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 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.

**JURY INSTRUCTION NO. 2****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 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.

**JURY INSTRUCTION NO. 3****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. The law makes no distinction between direct evidence and circumstantial evidence. Give all the evidence the weight and value you think it is entitled to receive.

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.

**JURY INSTRUCTION NO. 4****Objections**

From time to time during the trial, I was called upon to make rulings of law on objections or motions made by the lawyers. It is the duty of the lawyers for each party to object when another party offers testimony or other evidence that the lawyers believe is not properly admissible. You should not show prejudice against a lawyer or the party they represent because the lawyer made objections. You should not infer or conclude from any ruling or other comment I made that I had any opinions on the merits of the case favoring one side or the other. If I sustained an objection that goes unanswered by the witness, you should not draw any inferences or conclusions from the question itself.

**JURY INSTRUCTION NO. 5****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.

**JURY INSTRUCTION NO. 6****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.

**JURY INSTRUCTION NO. 7****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.

**JURY INSTRUCTION NO. 8****Expert Witnesses**

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.

**JURY INSTRUCTION NO. 9****Hypothetical Questions**

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.

**JURY INSTRUCTION NO. 10****Contradictory Statement, Non-party, Witness Not Under Oath**

You have heard evidence claiming certain witnesses 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.

**JURY INSTRUCTION NO. 11****Contradictory Statement, Non-party, Witness Under Oath**

You have heard evidence claiming certain witnesses made statements before this trial while under oath which were inconsistent with what they 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 <sup>*certain witnesses*</sup> ~~name of non-party~~ *by* ~~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.

**JURY INSTRUCTION NO. 12****Statements by a Party Opponent**

You have heard evidence claiming certain Parties 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 the party had made it under oath during the trial.

If you find such a statement was made and was inconsistent with the Party's testimony during the trial you may also use the statement as a basis for disregarding all or any part of the 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.

**JURY INSTRUCTION NO. 13****Agents**

Plaintiffs and defendants have equal rights in Court. This means you are to decide this case as though it were a case of two individuals.

The fact that Defendant is a government entity should not affect your decision. All persons and entities are equal before the law. All persons and entities, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

**JURY INSTRUCTION NO. 14**

**Liability of Employer**

An employer is liable for the negligent acts of an employee if the acts are done in the scope of the employment.

**JURY INSTRUCTION NO. 15****Scope of Employment.**

For an act to be within the scope of an employee's employment, the act must be necessary to accomplish the purpose of the employment, and it must be intended to accomplish that purpose.

**JURY INSTRUCTION NO. 16****Negligence- Essentials For Recovery**

Plaintiffs must prove all of the following propositions:

1. Urbandale Community School District was negligent in one or more of the following

ways:

- a. In failing to exercise reasonable care to prevent students from exhibiting and/or distributing nude photographs of Riley Safris during school;
- b. In failing to exercise reasonable care to protect Riley Safris from bullying and harassment by her peers, during school, after the exhibition and/or distribution of her nude photographs;
- c. In failing to exercise reasonable care to adequately supervise and monitor Riley Safris and/or Kirby Oliver (aka Kirby Schmitz) during their shared extended learning arts class such that Riley Safris was sexually assaulted by Kirby Oliver (aka Kirby Schmitz) during class;
- d. In failing to exercise reasonable care to protect Riley Safris from being sexually assaulted by Kirby Oliver (aka Kirby Schmitz) during their shared extended learning arts class;
- e. In failing to exercise reasonable care to ensure teachers were aware of the contents of the IEP of Kirby Oliver (aka Kirby Schmitz);
- f. In failing to exercise reasonable care to ensure teachers complied with the requirements of the IEP of Kirby Oliver (aka Kirby Schmitz); and *or of*
- g. In failing to exercise reasonable care to follow and enforce its anti-*bullying* and anti-sexual assault policies.

2. The negligence was a cause of damage to Riley Safris.

3. The amount of damages.

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

**JURY INSTRUCTION NO. 17****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.

**JURY INSTRUCTION NO. 18****Fault -Defined.**

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

**JURY INSTRUCTION NO. 19****Cause - Defined.**

The conduct of a party is a cause of damage when the damage would not have happened except for the conduct. There can be more than one cause of an injury or damage.

**JURY INSTRUCTION NO. 20**

The mere fact that a party was injured does not mean that the other party was negligent.

**JURY INSTRUCTION NO. 21****Damages.**

If you find Plaintiffs are entitled to recover damages, you shall consider the following items as it relates to Riley Safris:

1. Physical and mental pain and suffering in the past (from the date of the injury to the present time) and physical and mental pain and suffering in the future. 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.
2. Loss of full use and function of mind and body in the past (from the date of the injury to the present time) and loss of full use and function of mind and body in the future. Loss of mind is the inability of a particular part of the mind to function in a normal manner. Loss of body is the inability of a particular part of the body to function in a normal manner.
3. The present value of loss of future earning capacity. Loss of future earning capacity is the reduction in the ability to work and earn money generally, rather than in a particular job.

The amount you assess for physical and mental pain and suffering in the past and future, future earning capacity, and loss of function of 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 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. The amounts, if any, you find for each of the above items will be used to answer the questions in the verdict form.

**JURY INSTRUCTION NO. 22****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 Riley Safris for future losses.

**JURY INSTRUCTION NO. 23****Mortality Table**

The Standard Mortality Table indicates the normal life expectancy of people who are the same age as Riley Safris is 62.23 years. The statistics from the Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence about Riley's prior health, habits, occupation, and lifestyle, when deciding issues of future damages.

**JURY INSTRUCTION NO. 24****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.

**JURY INSTRUCTION NO. 25**

Demonstrative exhibits are animations, power points, and other enhanced exhibits the lawyers may use during their statements and questioning of witnesses. You must understand these demonstratives are employed merely as visual aids and are not evidence.

**JURY INSTRUCTION NO. 26**

You may not communicate about this case before reaching your verdict. This includes cell phones, and electronic media such as text messages, Facebook, MySpace, LinkedIn, YouTube, 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.

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

**JURY INSTRUCTION NO. 27****IEP Requirements**

Iowa public schools are required to provide Individualized Education Programs (IEPs) to students with disabilities. IEPs are required to include a written statement of the services to be provided to a disabled child and a statement of the program modifications or supports for school personnel that will be provided to a disabled child. Public schools must ensure that IEP services are provided as soon as possible following the development of a written IEP. Public schools must ensure that each IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation and that each teacher and provider is informed of their specific responsibilities related to implementing the child's IEP so that the specific accommodations, modifications, and supports that must be provided for the child are in fact provided.

**JURY INSTRUCTION NO. 28****Deliberations – General Instructions to Jury**

Upon retiring you shall select a foreperson. 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.

**JURY INSTRUCTION NO. 29****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.

**JURY INSTRUCTION NO. 30****Questions**

Occasionally, after a jury retires to the jury room, members have questions. I have prepared the instructions after carefully considering this case with the parties and the lawyers. I have tried to use language which is generally understandable. Usually questions about instructions can be answered by carefully re-reading the instructions.

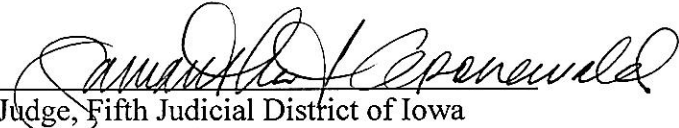
If, however, any of you feel it is necessary to ask a question, you must do so in writing with the foreperson signing the request and dating same, and delivering the question to the court attendant. I cannot communicate with you without first discussing your question and potential answer with the parties and lawyers.

**JURY INSTRUCTION NO. 31****Return of Verdict – Forms of Verdict**

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

After deliberating for six hours, 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 interrogatories must be signed by all seven jurors who agree.

When you have agreed upon the verdict and interrogatories and appropriately signed them, tell the Judicial Assistant.

  
Judge, Fifth Judicial District of Iowa  
11/7/2024

Deliberations to begin  
11/8/2024 @ 9:00 AM