IN THE IOWA DISTRICT COURT IN AND FOR DAVIS COUNTY

CHARLES MICHAEL HARWARD, Plaintiff, Vs. TIMOTHY W. HALE, Defendant.	NO. LALA012654 **PRELIMINARY INSTRUCTIONS TO JURORS**

MEMBERS OF THE JURY:

Throughout the course of this trial you will be hearing witnesses testify about events which form the basis of this action, and exhibits may be received as evidence. It is your job to determine the facts from the evidence. To better enable you to understand the evidence and testimony as it is received and to apply it to the law, at this time the Court will preliminarily instruct you on certain matters. You are instructed as follows:

INSTRUCTION NO. 1

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.

100.3

INSTRUCTION NO. 2

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.

100.4

INSTRUCTION NO. 3

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.

100.9

INSTRUCTION NO. 4

The court attendant will hand out notebooks and pencils. That is because you as jurors are permitted to take notes during the trial if you want to and have your notes with you during your deliberations.

You are not required to take notes. You should not do so if you think that note-taking might distract your attention from the evidence or the testimony of the witnesses in this case. On the other hand, if you think taking notes might better focus your attention on the witnesses and the evidence, or might better help you recall what went on during the trial, you may feel free to take notes.

You should remember that your notes are intended only to be a help to your memory. They should not take precedence over your own independent recollection of the evidence. The notes taken are not evidence.

Whenever there is a recess in the trial, please leave your notebooks and pencils on your chairs. They will be left there during short recesses, and they will be collected during overnight recesses and luncheon recesses and retained by the court attendant. At no time during or after the trial will anyone, including myself, look at any of your notes. At the end of the trial, after you have finished your deliberations, I will ask each of you to give your notebooks to the head juror. The head juror will give your notes to the court attendant, who will destroy them, immediately after the return of your verdict.

If you wish to make use of the notebook, please write your name on the first page and begin taking notes on the second page. If you don't want to take notes, just write your name on the first page and place the notebook on the floor by your chair.

INSTRUCTION NO. 5

You may not communicate about this case 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 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.

100.23

CAUTION

At the end of the trial I will also instruct you on the law of the case as it applies to the evidence. The Court, by instructing you at this time, does not mean to imply that these are the most important instructions or that they will be the only ones given to you. Rather, they are given to you preliminarily to better enable you to understand the evidence as it is received during the course of the trial.

State of Iowa Courts

Case Number	**Case Title**
LALA012654	HARWARD CHARLES M VS HALE, TIMOTHY E ET AL
Type:	JURY INSTRUCTIONS

So Ordered

Amber L. Thompson, District Court Judge,
Eighth Judicial District of Iowa

Electronically signed on 2026-03-10 11:53:57

IN THE IOWA DISTRICT COURT FOR DAVIS COUNTY

CHARLES MICHAEL HARWARD, Plaintiff, v. TIMOTHY W. HALE, Defendant.	Case No. LALA012654 **JURY INSTRUCTIONS**

INSTRUCTION NO. 1

Members of the Jury: In this case, Plaintiff Charles Michael ("Mike") Harward asserts claims against Defendant Timothy W. Hale for trespass to Harward's property causing damages to trees and the land by the digging of a trench. 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. 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 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. 3

Whenever a party must prove something, they must do so by a 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. 4

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1. Testimony in person.

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, 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 that 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. 5

Decide the facts from the evidence. Consider the evidence using your observations, reasoning, 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 that 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 witness's appearance, conduct, age, intelligence, memory and knowledge of the facts.
4. The witness's 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. 6

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.

INSTRUCTION NO. 7

Certain testimony has been read into evidence from a prior trial transcript. The testimony was taken under oath and preserved in writing. Consider that testimony as if it had been given in court.

INSTRUCTION NO. 8

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 witnesses' education and experience, the reasons given for the opinion, and all the other evidence in the case.

INSTRUCTION NO. 9

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. 10

You have heard evidence claiming one or more 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 the party had made it under oath during the trial.

If you find that 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.

INSTRUCTION NO. 11

In order to prove that the Defendant trespassed on Plaintiff's property, Plaintiff must prove all of the following:

1. Plaintiff owned or had the present right to possess the property at the time of the alleged entry;
2. Defendant intentionally entered the property and/or caused a third person or thing to enter the property;
3. Plaintiff did not give Defendant permission for entry into the property; and
4. Defendant was not otherwise authorized by right or lawful authority to enter the property.

If Plaintiff has proven all four elements, you must find that Defendant trespassed on Plaintiff's property. If Plaintiff fails to prove any one element, you must find Defendant did not trespass on Plaintiff's property. If you find Defendant did not trespass, you cannot award damages to Plaintiff.

INSTRUCTION NO. 12

Intent to trespass means only that a person intended to be in the particular location where the trespass is alleged to have occurred. An entry is intentional even if the person reasonably but mistakenly thought that he or she had a right to come onto that property.

An intent to do harm to the property or to the owner is not required.

An entry is intentional if a person knowingly goes onto the property where the trespass is alleged to have occurred or knowingly causes something or someone to go onto that property. An entry is intentional if a person engages in conduct that is substantially certain to cause something to go onto that property.

INSTRUCTION NO. 13

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

INSTRUCTION NO. 14

If you find that the Defendant's trespass caused damages to or the removal of trees belonging to the Plaintiff, you must determine the amount of damages, if any. The measure of damages is the reasonable market value of the logs or timber removed or damaged at the time they were removed or damaged.

INSTRUCTION NO. 15

Treble damages shall be awarded if the Plaintiff has proven willful injuries to the trees. This means the damages amount you determine for the trees will be tripled by the Court. You as the jury do not triple your damages amount. The Court will do so. Treble damages are not intended to compensate for injury but are designed to punish and discourage the Defendant and others from like conduct in the future.

INSTRUCTION NO. 16

In order to act "willfully," it means to act intentionally, purposefully, without reasonable excuse, or without regard or with loose disregard to the rights of others. It must be more than mere carelessness, recklessness, or mere inadvertence.

INSTRUCTION NO. 17

If you find that the Defendant's trespass caused damages to Plaintiff's land, you must determine the amount of damages, if any, to the land. The measure of damages to the land is the fair and reasonable cost of repair as long as such cost does not exceed the value of the land prior to the damage. If cost to repair the land exceeds the value of the land prior to the damages, the recovery is capped at the value of the land prior to incurring damage.

INSTRUCTION NO. 18

The amount of damages to the land are subject to the doctrine of economic waste. Any damages you may award may not cause unnecessary economic waste. Economic waste occurs when the cost of repair is grossly disproportionate to the benefit received from the property owner or if repair would require unnecessary destruction of work already done. Should you find that the cost of repair would create economic waste the amount of damages awarded for the property should be for the reduction in value of the property as a result of the damages.

INSTRUCTION NO. 19

Plaintiff must prove damages with reasonable certainty. You may not award speculative, excessive, or unsupported amounts.

INSTRUCTION NO. 20

Punitive damages may be awarded if the plaintiff has proven by a preponderance of clear, convincing, and satisfactory evidence that the defendant's conduct constituted a willful and wanton disregard for the rights or safety of another and caused actual damage to the plaintiff.

Punitive damages are not intended to compensate for injury but are allowed to punish and discourage the defendant and others from like conduct in the future. You may award punitive damages only if the defendant's conduct warrants a penalty in addition to the amount you award to compensate for plaintiff's actual injuries.

There is no exact rule to determine the amount of punitive damages, if any, you should award. You may consider the following factors:

1. The nature of defendant's conduct that harmed the plaintiff.
2. The amount of punitive damages which will punish and discourage like conduct by the defendant. You may consider the defendant's financial condition or ability to pay. You may not, however, award punitive damages solely because of the defendant's wealth or ability to pay.
3. The plaintiff's actual damages. The amount awarded for punitive damages must be reasonably related to the amount of actual damages you award to the plaintiff.
4. The existence and frequency of prior similar conduct.

To avoid double punishment, you shall not consider Defendant's actions regarding damage to the Plaintiff's trees in considering punitive damages.

INSTRUCTION NO. 21

As it pertains to Instruction No. 20, evidence is clear, convincing, and satisfactory if there is no serious or substantial uncertainty about the conclusion to be drawn from it.

INSTRUCTION NO. 22

Conduct is willful and wanton when a person intentionally does an act of an unreasonable character in disregard of a known or obvious risk that is so great as to make it highly probable that harm will follow.

INSTRUCTION NO. 23

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 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.

INSTRUCTION NO. 24

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. 25

You may not communicate about this case 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 the 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 will be tried on the 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 the parties are entitled to a fair trial, rendered by an impartial jury, and you must conduct yourself 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.

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

INSTRUCTION NO. 26

Occasionally, after a jury retires to the jury room, the members have questions. Usually, questions about instructions can be answered by carefully re-reading them. One question sometimes asked relates to whether the jurors can obtain a copy of a transcript of the testimony. You must rely upon your memory of the evidence, as there is no transcript available.

If, however, any of you feel it necessary to ask any 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 the potential answer with the parties and lawyers. This process naturally takes considerable time before I can reply.

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

INSTRUCTION NO. 27

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. 28

Personal prejudices have no place in court. You must set aside and disregard any personal feelings of bias or prejudice that you may have based on sex, race, religion, national origin, age, or disability. You must decide this case only based on the evidence that is admitted and the law as I explain it to you.

INSTRUCTION NO. 29

Upon retiring, you shall select a presiding juror. It will be his or her duty to see that 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 it is shown to 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. 30

Smoking is prohibited in the jury room during deliberations. If a juror feels it necessary to smoke, the juror must leave the jury room and smoke in an area designated by the Court Attendant. During this juror's absence, the jury may not continue to deliberate as all jurors must be present during deliberations.

INSTRUCTION NO. 31

I am giving you one copy of the two verdict forms.

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 must be signed by your presiding juror.

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 must be signed by all seven jurors who agree.

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

INSTRUCTION NO. 32

I have not by these instructions, by any ruling made, by any act done, or by anything said during the trial intended or attempted to give any opinion as to what the facts are, what the proof is, or what your verdict should be.

State of Iowa Courts

Case Number	**Case Title**
LALA012654	HARWARD CHARLES M VS HALE, TIMOTHY E ET AL
Type:	JURY INSTRUCTIONS

So Ordered

Amber L. Thompson, District Court Judge,
Eighth Judicial District of Iowa

Electronically signed on 2026-03-13 09:46:40