

IN THE IOWA DISTRICT COURT FOR BUENA VISTA COUNTY

DANIEL KHANG, Plaintiff, vs. CHONG XIONG, Defendants.	CASE NO. LACV035135 PRELIMINARY INSTRUCTIONS TO THE JURY
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Dated this 14th day of April, 2026.

BY THE COURT:



Adam Miller, Judge of the
Third Judicial District of Iowa

PRELIMINARY INSTRUCTION NO. 1 (STATEMENT OF THE CASE)

In this case, Plaintiff Daniel Khang was bitten and injured on or about June 23, 2022, at 134 Highway Street, Storm Lake, Iowa, by a dog named Sandie owned by Defendant Chong Xiong. The dog was housed in a kennel in the backyard of 134 Highway Street, a property owned and occupied by Ong Lor, at the time of the attack.

The Court has already ruled that Defendant Chong Xiong is strictly liable to Daniel Khang for damages caused by the dog. The remaining issues for your determination are (1) the amount of damages, if any, suffered by Plaintiff, and (2) whether any fault of the released parties or the Plaintiff contributed to those damages.

Plaintiff originally brought claims against additional defendants. The Court has entered summary judgment dismissing all claims against Thao Xiong and Ker Yang. Plaintiff has since settled with and released Ong Lor and Chakhon Khang.

Defendant Chong Xiong claims that the released parties, Ong Lor and Chakhon Khang, and the Plaintiff, were also at fault and that their fault was a cause of Plaintiff's damages.

These claims and the burdens of proof will be explained further in final instructions that will be given to you after all of the evidence has been submitted. It will be your duty to determine whether the Plaintiff and Defendant have met their burdens of proof regarding said claims.

Do not consider this summary as proof of any claim. You will decide the facts from the evidence that is presented and apply the law that the Court will give you at the end of the case.

PRELIMINARY 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. It is common to have hidden or implicit thoughts that help us form our opinions. You are making very important decisions in this case. You must evaluate the evidence carefully. You must avoid decisions based on things such as generalizations, gut feelings, prejudices, fears, sympathies, stereotypes, or inward or outward 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.

PRELIMINARY INSTRUCTION NO. 3

As previously noted, the burdens of proof will be explained further in the final instructions that will be given to you after all of the evidence has been submitted.

However, generally, 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.

PRELIMINARY INSTRUCTION NO. 4

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. You will be able to examine the exhibits closely, but be careful not to alter or destroy them.
3. Stipulations, which are agreements between the attorneys.
4. Any other matter admitted (for example, answers to interrogatories or matters of which judicial notice was taken, etc.).

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 tell you to disregard.
4. Anything you saw or heard about this case outside the courtroom.

PRELIMINARY INSTRUCTION NO. 5

In considering the evidence, you may make deductions and reach conclusions according to reason and common sense. Facts may be proved by direct evidence, circumstantial evidence, or both. Direct evidence is evidence from a witness who claims actual knowledge of a fact. Circumstantial evidence is the proof of a chain of circumstances pointing to the existence or nonexistence of certain facts. 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.

PRELIMINARY INSTRUCTION NO. 6

Decide the facts from the evidence. Consider the evidence using your observations, common sense, and experience. Try to reconcile any conflicts in the evidence; but if you cannot, 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 witness's 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 witness's appearance, conduct, age, intelligence, memory and knowledge of the facts.
3. The witness's interest in the trial, their motive, candor, bias and prejudice.

PRELIMINARY INSTRUCTION NO. 7

From time to time during the trial, it may be necessary for me to talk with the lawyers out of your hearing, either by having a bench conference here while you are present in the courtroom, or by calling a recess. The purpose of these conferences is not to keep information from the jury, but to decide how certain evidence is to be treated under the rules of evidence and to avoid confusion and error. We will, of course, do what we can to keep the number and length of these conferences to a minimum.

You should also be aware that during the trial, the attorneys may find it necessary to object to a question or to the admission of certain evidence. It is the duty of an attorney to object when he or she believes it is necessary to alert the Court to a dispute over whether evidence should be permitted under the rules of evidence. These objections will be resolved by the Court and you should not give any weight or significance to the fact that an objection may be made by an attorney during the trial and you should not show prejudice against a lawyer or the party they represent simply because the lawyer has made objections. Also, you should not infer or conclude from any ruling or other comment I may make that I have any opinions on the merits of the case favoring one side or the other. And if I sustain an objection to a question, and that question goes unanswered by the witness, you should not draw any inferences or conclusions from the question itself, nor may you speculate on what the answer may have been.

PRELIMINARY INSTRUCTION NO. 8

Exhibits will be offered in the trial of this matter. The exhibits may have been edited to remove certain irrelevant, unrelated, or distracting components. The edited portions may have been removed for any of a number of reasons. You must not consider or speculate as to the content of the edited portions of the exhibits.

This is similar to the situation during testimony when there may be an objection to a question. As I instructed you earlier, if the objection is sustained by the court and the witness is not allowed to answer the question, you must not speculate on what the answer may have been, nor may you draw any inference from the question itself. Likewise, with regard to the exhibits, you must not speculate on what the edited portions contained, nor may you draw any inference from the fact that a portion of the

exhibit was edited.

PRELIMINARY INSTRUCTION NO. 9

You may not communicate about this case before reaching your verdict. This includes cell phones, smart phones, tablets, wearable technology, and any electronic media platforms such as internet websites, text messages, e-mail, Facebook, LinkedIn, YouTube, Twitter, Instagram, Snapchat, or any others.

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.

PRELIMINARY INSTRUCTION NO. 10

If you want to take notes during the course of the trial you may do so. We will provide you with pads of paper and pencils for that purpose.

However, you should be advised that it is difficult to take detailed notes and pay attention to what

the witnesses are saying at the time. If you do take notes, be sure that your taking of the notes does not interfere with your listening to and considering all the evidence. Also, if you take notes, do not discuss them with anyone before you begin your deliberations. Do not take the notes with you at the end of the day. Be sure to leave them on your chair in the courtroom. The court attendant will safeguard the notes at the end of each day and ensure that they remain confidential. No one will read them. The notes will remain confidential throughout the trial and will be destroyed at the conclusion of the trial.

If you choose not to take notes, remember it is your own individual responsibility to listen carefully to the evidence. You cannot give this responsibility to someone who is taking notes. We depend on the judgment of all members of the jury; you must all remember the evidence in this case.

Whether or not you take notes, you should rely on your own memory regarding what was said. Your notes are not evidence. A juror's notes are not more reliable than the memory of another juror who chooses to carefully consider the evidence without taking notes. You should not be overly influenced by the notes.

You will notice that we will have an official court reporter making a record of the trial. This record is made for the purposes of any possible appeals following this trial; it is not made for the jury's use in deliberation. You will not have typewritten transcripts of this record available for your use in reaching your decision in this case.

I will provide you with further instructions at the end of the trial.