

IN THE IOWA DISTRICT COURT FOR EMMET COUNTY

FILED
CLERK OF COUNTY COURT
EMMET COUNTY, IOWA
JUN 4 2025
TIME 4:20 p.m.
BY [Signature]

KELLY COOK,
Plaintiff,

v.

JOEL RYAN LAIR and LARRY LAIR
EXCAVATING, INC.,
Defendants.

Case No. LACV022087

JURY INSTRUCTIONS

Statement of the Case

This case arises out of a motor vehicle accident on May 31, 2022, involving the plaintiff Kelly Cook and the defendant Joel Lair. The plaintiff claims that defendants' negligence caused the accident. The plaintiff claims that the defendants' conduct caused him to be injured and suffer damages.

The defendants both admit liability. The defendants further admit that the accident caused certain injuries to the plaintiff. The defendants, however, deny that the plaintiff suffered damages to the nature, extent, or duration claimed by the plaintiff.

Do not consider this summary as proof of any claim. Decide the facts from the evidence and apply the law which I will give you.

Instruction No. 1

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

You must consider all of 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. 2

Whenever a party must prove something they must do so by the preponderance of the evidence.

Preponderance of the evidence is evidence that is more convincing than opposing evidence. Preponderance of the evidence does not depend upon the number of witnesses testifying on one side or the other.

Instruction No. 3

You shall base your verdict only upon the evidence and these instructions.

Evidence is:

1. Testimony in person or by deposition.
2. Exhibits received by the court.
3. Stipulations which are agreements between the attorneys.
4. Any other matter admitted (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.

Instruction No. 4

Certain testimony has been read into evidence from a deposition or presented by video recording. A deposition is testimony taken under oath before the trial and preserved in writing. Consider that testimony as if it had been given in court.

Instruction No. 5

During this trial, you have heard the word "interrogatory." An interrogatory is a written question asked by one party 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. 6

You will decide the facts from the evidence. Consider the evidence using your observations, common sense and experience. You must try to reconcile any conflicts in the evidence; but, if you cannot, you will accept the evidence you find more believable.

In determining the facts, you may have to decide what testimony you believe. You may believe all, part or none of any witnesses' testimony.

There are many factors which you may consider in deciding what testimony to believe, for example:

1. Whether the testimony is reasonable and consistent with other evidence you believe;
2. 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.

Instruction No. 7

An expert witness was asked to assume certain facts were true and to give an opinion based on that assumption. This is called a hypothetical question. If any fact assumed in the question has not been proved by the evidence, you should decide if that omission affects the value of the opinion.

Instruction No. 8

You have heard 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.

Instruction No. 9

You have heard evidence claiming a party made statements before this trial 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 any party's testimony during the trial if other credible evidence supports it or if you believe it for any other reason.

Instruction No. 10

During this trial, you may see that some of the exhibits have been redacted meaning that information has been removed or blacked out. Iowa law requires that certain things such as social security numbers, bank account numbers, etc. to be redacted such that the public does not have access to this confidential information. This should have no effect in your evaluation of the documents and the evidence in this case.

Instruction No. 11

The plaintiff claims the defendants were at fault in the accident which occurred on May 31, 2022.

The defendants both admit liability for the accident and that the plaintiff suffered certain injuries, but the parties dispute the amount of damages suffered by the plaintiff.

Instruction No. 12

The plaintiff has the burden of proving damages. In determining the amount of damages that the plaintiff is entitled to recover, you shall consider the following items:

1. Past loss of time from business and loss of earnings
2. Past medical expense

3. Past loss of function of the body
4. Future loss of function of the body
5. Past pain and suffering
6. Future pain and suffering

The amount you assess for physical and mental pain and suffering in the past and future, loss of function of the 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 a party 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.

Instruction No. 13

Past medical expenses include the reasonable cost of necessary hospital charges, doctor charges, prescriptions and other medical services from the date of injury to the present time. The parties stipulate that the plaintiff incurred medical expenses in the amount of \$17,698.59, which amount is reasonable and customary for the type of medical services provided in this geographic area.

Instruction No. 14

Loss Of time – Earnings includes the reasonable value of lost wages and lost time from business from the date of injury to the present time. Loss of time from business is measured by the value of a person's own labor. The parties stipulate that the accident caused plaintiff to miss work and lose wages in the amount of \$2,632.64.

Instruction No. 15

Loss of function of the body from the date of injury to the present time. Loss of body is the inability of a particular part of the body to function in a normal manner.

Instruction No. 16

Future loss of full mind and body is the present value of future loss of function of the mind and body.

Instruction No. 17

Physical and Mental Pain and Suffering – Past. Physical and mental pain and suffering from the date of injury to the present time.

Physical pain and suffering may include, but is not limited to, bodily suffering or discomfort.

Mental pain and suffering may include, but is not limited to, mental anguish or loss of enjoyment of life.

Instruction No. 18

Future pain and mental suffering is the present value of future physical and mental pain and suffering.

Instruction No. 19

If you find the plaintiff had a pre-existing condition before this incident and this condition was aggravated or made active by this incident causing further suffering and disability, then he is entitled to recover damages caused by the aggravation. He is not entitled to recover for any physical ailment or disability which existed before this incident or for any injuries or damages which he now has which were not caused by the defendant's actions.

Instruction No. 20

If you find that the plaintiff was injured by another act after this incident, he cannot recover for any later injury or aggravation of an injury not caused by this incident.

Instruction No. 21

Future damages must be reduced to present value. "Present value" is a sum of money paid now in advance which, together with interest earned at a reasonable rate of return, will compensate the plaintiff for future losses.

Instruction No. 22

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Kelly Cook is 20.41 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Kelly Cook's health, habits, occupation, and lifestyle, when deciding issues of future damages.

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 and agreeing in advance that the average of those estimates shall be your item of damage.

Instruction No. 24

Upon retiring you shall select a foreman or forewoman. It will be his or her duty to see discussion is carried on in an orderly fashion, the issues are fully and freely discussed, and each juror is given an opportunity to express his or her views.

Your attitude at the beginning of your deliberations is important. It is not a good idea for you to take a position before thoroughly discussing the case with the other jurors. If you do this, individual pride may become involved and you may later hesitate to change an announced position even if shown it may be incorrect. Remember you are not partisans or advocates, but are judges - judges of the facts. Your sole interest is to find the truth and do justice.

Instruction No. 25

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. 26

I am giving you one verdict form with 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 answers to questions must be signed by your foreman or forewoman.

After deliberating for six hours from 3:10 o'clock 8 .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 and questions must be signed by all seven jurors who agree.

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