

IN THE IOWA DISTRICT COURT FOR WOODBURY COUNTY

CHRISTIAN VANDERVLiet,

Plaintiff,

v.

TROY UTECH,

Defendants.

LAW NO. LACV164974

THE COURT'S FINAL
JURY INSTRUCTIONS

COMES NOW Defendant Troy Utech, and if the case should be submissible, submit the following proposed jury instructions:

Jury Instructions:

100.1	Statement of the Case
100.2	Duties of Judge and Jury, Instructions as a Whole
100.3	Burden of Proof, Preponderance of Evidence
100.4	Evidence
100.5	Deposition Testimony
100.6	Interrogatories
100.9	Credibility of Witnesses
100.12	Opinion Evidence, Expert Testimony
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200.1	Elements – Personal Injury
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200.10	Loss of Full Mind and Body – Past
200.12	Physical and Mental Pain and Suffering – Past
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STATEMENT OF THE CASE

Members of the Jury:

This case involves a motor vehicle accident which took place on June 13, 2013. Defendant, Troy Utech, admits fault. Plaintiff Christian Vandervliet claims he has back pain as a result of the accident. Defendant Troy Utech denies Vandervliet's claims. Utech asserts Vandervliet did not sustain any injuries as a result of the accident, and that any alleged back pain is not related to the accident.

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.

Authority

Iowa Civil Jury Instruction 100.1

JURY INSTRUCTION NO. ____1____

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 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.

Do not be influenced by any personal likes or dislikes, sympathy, bias, prejudices or emotions.

Authority

Iowa Civil Jury Instruction 100.2

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.

Authority

Iowa Civil Jury Instruction 100.3

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.

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.

Authority

Iowa Civil Jury Instruction 100.4

JURY INSTRUCTION NO. ____4____

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.

Authority

Iowa Civil Jury Instruction 100.5

JURY INSTRUCTION NO. ____5____

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.

Authority

Iowa Civil Jury Instruction 100.6

JURY INSTRUCTION NO. ____6____

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.

Authority

Iowa Civil Jury Instruction 100.9

JURY INSTRUCTION NO. ____7____

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.

Authority

Iowa Civil Jury Instruction 100.12

JURY INSTRUCTION NO. ____8____

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.

Authority

Iowa Civil Jury Instruction 100.18

JURY INSTRUCTION NO. ____9____

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.

Authority

Iowa Civil Jury Instruction 100.21

JURY INSTRUCTION NO. ____10____

Use of Electronic Devices

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.

Authority

Iowa Civil Jury Instruction 100.23

JURY INSTRUCTION NO. ____11____

Essentials For Recovery. The plaintiff must prove all of the following propositions:

1. Defendant's negligence was a cause of damage to the plaintiff.
2. 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 of these propositions, the plaintiff is entitled to damages in some amount.

Authority

Iowa Civil Jury Instruction 700.1

JURY INSTRUCTION NO. __12__

Elements - Personal Injury

If you find Plaintiff is entitled to recover damages, you shall consider the following items:

1. Past Medical Expenses
2. Loss of Full Body – Past
3. Physical and Mental Pain and Suffering – Past

The amount you assess for physical pain and suffering in the past and loss of function of the 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 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.

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

Authority

Iowa Civil Jury Instruction 200.1

JURY INSTRUCTION NO. ____13____

Past Medical Expenses

The reasonable cost of necessary hospital charges, doctor charges, prescriptions and other medical services from the date of injury to the present time.

In determining the reasonable cost of necessary hospital charges, doctor charges, prescriptions, and other medical services, you may consider the amount charge, the amount actually paid, or any other evidence of what is reasonable and proper for such medical expense.

Authority

Iowa Civil Jury Instruction 200.6

JURY INSTRUCTION NO. ____14____

Loss of Full Mind and Body - Past

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.

Authority

Iowa Civil Jury Instruction 200.10

JURY INSTRUCTION NO. __15__

Loss of Function of the Body - Future

The present value of future loss of function of the body.

Authority

Iowa Civil Jury Instruction 200.11B

JURY INSTRUCTION NO. __16__

Future Medical Expenses

The present value of reasonable and necessary hospital charges, doctor charges, prescriptions, and other medical services which will be incurred in the future.

Authority

Iowa Civil Jury Instruction 200.7

JURY INSTRUCTION NO. ____17____

Physical and Mental Pain and Suffering - Past

Physical 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.

Authority

Iowa Civil Jury Instruction 200.12

JURY INSTRUCTION NO. __18__

Physical and Mental Pain and Suffering - Future

The present value of future physical and mental pain and suffering.

Authority

Iowa Civil Jury Instruction 200.13B

JURY INSTRUCTION NO. __19__

Mortality Tables - Personal Injury

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Christian VanderVliet is 55.3 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Christian VanderVliet's health, habits, occupation, and lifestyle, when deciding issues of future damages.

Authority

Iowa Civil Jury Instruction 200.37

JURY INSTRUCTION NO. ____20____

Quotient Verdict

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.

Authority

Iowa Civil Jury Instruction 200.38

JURY INSTRUCTION NO. ____21____

Cause - Defined

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

Authority

Iowa Civil Jury Instruction 700.3

JURY INSTRUCTION NO. __22__

Return of Verdict - Forms of Verdict.

I am giving you verdict forms and 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 and interrogatories must be signed by your foreman or forewoman.

After deliberating for six hours from ____ o'clock ____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 interrogatories must be signed by all seven jurors who agree.

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

Authority

Iowa Civil Jury Instruction 300.1



State of Iowa Courts

Type: OTHER ORDER

Case Number	Case Title
LACV164974	VANDERVLIET, CHRISTIAN VS. UTECH, TROY

So Ordered

A handwritten signature in black ink, appearing to read "Edward A. Jacobson", is written over a horizontal line.

Edward A. Jacobson, District Court Judge,
Third Judicial District of Iowa