
IN THE IOWA DISTRICT COURT FOR POLK COUNTY

ANTHONY L. NELSON,**Plaintiff,****v.****ALISHA A. RANKIN,****Defendant.****CASE NO.: LACL155288****JURY INSTRUCTIONS****STATEMENT OF THE CASE**

Members of the Jury:

This matter arises out of a motor vehicle and pedestrian collision involving the Plaintiff, Anthony L. Nelson, and the Defendant, Alisha A. Rankin. The collision occurred at or near the intersection of 2nd Avenue and Center Street in Des Moines, Polk County, Iowa on August 6, 2021.

Mr. Nelson alleges Ms. Rankin was negligent in the operation of her vehicle on August 6, 2021. Ms. Rankin denies that she was negligent and further denies her actions were a proximate cause of Mr. Nelson's claimed injuries and 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.

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CLERK DISTRICT COURT

Samuel A. Crawford
3/6/2025 @ 12:09 pm

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 the instructions together because no single instruction includes all 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, 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 entered into evidence from a video-taped perpetuation deposition. A video-taped perpetuation deposition is trial testimony taken under oath before the trial. Consider that testimony as if it had been given in court.

INSTRUCTION NO. 5

You have heard evidence claiming Mr. Nelson and/or Ms. Rankin made statements before this trial while under oath and/or 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 Mr. Nelson and/or Ms. Rankin had made it under oath during the trial.

If you find such a statement was made and was inconsistent with Mr. Nelson and/or Ms. Rankin's testimony during the trial you may also use the statement as a basis for disregarding all or any part of that party's testimony during the trial but you are not required to do so. You should not disregard that party's testimony during the trial if other credible evidence supports it or if you believe it for any other reason.

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

You have heard testimony from people 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. 8

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.

INSTRU0CTION NO. 9

In these instructions I will be using the term “fault”. Fault means one or more acts or omissions towards the person of the actor or of another which constitutes negligence.

INSTRUCTION NO. 10

“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.

INSTRUCTION NO. 11

Mr. Nelson must prove all the following propositions:

1. Ms. Rankin was negligent in one or more of the following ways:
 - a. In failing to operate her motor vehicle at a reasonable and proper speed, or in excess of the statutory speed limit, such that she was unable to stop her motor vehicle within the assured clear distance ahead;
 - b. In failing to maintain control of her motor vehicle; and/or
 - c. In failing to keep a proper lookout.
2. The negligence of Ms. Rankin was a cause of damage to Mr. Nelson.
3. The amount of damages.

If Mr. Nelson has failed to prove any of these propositions, then he is not entitled to damages.

If Mr. Nelson has proven all these propositions, then you should consider the defense of sudden emergency as explained in in Instruction No. 21.

If Mr. Nelson has proven all these propositions and you determine the defense of sudden emergency as explained in Instruction No. 21 does not apply, then you shall determine the amount of damages to which Mr. Nelson is entitled.

INSTRUCTION NO. 12

The mere fact that an accident occurred or a party was injured does not mean a party was at fault.

INSTRUCTION NO. 13

Any person driving a vehicle on a highway or roadway shall drive at a careful speed not greater than nor less than is reasonable and proper, having due regard for the traffic, surface and width of the highway or roadway and of any other existing conditions.

A violation of this law is negligence.

INSTRUCTION NO. 14

At the time and place, and with the motor vehicle involved in this case, any speed over thirty-five (35) miles per hour was unlawful.

A violation of this law is negligence.

INSTRUCTION NO. 15

No person shall drive any vehicle on a highway or roadway at a speed greater than will permit them to stop within the assured clear distance ahead. The words “within the assured clear distance ahead” mean the distance from which noticeable objects, reasonably expected or anticipated to be upon the highway or roadway, may be seen.

A violation of this law is negligence.

INSTRUCTION NO. 16

A driver must have his or her vehicle under control. It is under control when the driver can guide and direct its movement, control its speed and stop it reasonably fast.

A violation of this duty is negligence.

INSTRUCTION NO. 17

A driver operating a vehicle must have it under control and shall reduce its speed to a reasonable and proper rate when approaching and traveling through a crossing.

A violation of this law is negligence.

INSTRUCTION NO. 18

“Proper lookout” is the lookout a reasonable person would keep in the same or similar situation. It means more than looking and seeing. It includes being aware of the operation of the driver’s vehicle in relation to what the driver saw or should have seen.

A violation of this duty is negligence.

INSTRUCTION NO. 19

Both Ms. Rankin and the unnamed 3rd party driver of the black SUV had a right to use the road on August 6, 2021, prior to the accident involving Mr. Nelson, but each driver had to respect the rights of the other. Each driver could assume the other would obey the law until they knew, or in the exercise of ordinary care, should have known the other driver was not going to obey the law.

INSTRUCTION NO. 20

Ms. Rankin claims that if you find that she violated the law in the operation of her vehicle, she had a legal excuse for doing so because the unnamed 3rd party driving the black SUV suddenly attempted to make an improper left-turn in front of her vehicle and, therefore, she is not negligent. “Legal excuse” means that someone seeks to avoid the consequences of her conduct by justifying acts which would otherwise be considered negligent. The burden is upon Ms. Rankin to establish as a legal excuse:

1. Anything that would make complying with the law impossible.
2. Anything over which the driver has no control which places her vehicle in a position contrary to the law.
3. Failure to obey the law when the driver is confronted with a sudden emergency not of her own making.
4. An excuse or exception provided by the law.

If you find that Ms. Rankin has violated the law as submitted to you in other instructions, and that she has established a legal excuse for doing so under any one of the four definitions set forth above, then you should find that Ms. Rankin was not negligent for violating the particular law involved.

INSTRUCTION NO. 21

A sudden emergency is an unforeseen combination of circumstances that calls for immediate action or a sudden or unexpected occasion for action. A driver of a vehicle who, through no fault of his/her own, is placed in a sudden emergency, is not chargeable with negligence if the driver exercises that degree of care which a reasonably careful person would have exercised under the same or similar circumstances.

INSTRUCTION NO. 22

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

INSTRUCTION NO. 23

There can be more than one cause of an injury or damage. When the fault of two or more separate parties is so related to an event that their combined fault, when viewed as a whole, is the cause of the event without which the event would not occur, then the fault of each party may be a cause.

INSTRUCTION NO. 24

If you find Mr. Nelson is entitled to recover damages, you shall consider the following items:

1. past medical expenses;
2. future medical expenses;
3. lost wages;
4. past loss of full body and mind;
5. future loss of full body and mind;
6. past physical and mental pain and suffering; and
7. future physical and mental pain and suffering.

The amount you assess for past and future physical and mental pain and suffering and past and future loss of function of the mind and 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.

INSTRUCTION NO. 25

If you find Mr. Nelson is entitled to past medical expenses, he may recover 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 charged, the amount actually paid, or any other evidence of what is reasonable and proper for such medical expenses.

INSTRUCTION NO. 26

If you find Mr. Nelson is entitled to future medical expenses, he may recover the present value of reasonable and necessary hospital charges, doctor charges, prescriptions, chiropractic care, and other medical services which will be incurred in the future.

INSTRUCTION NO. 27

If you find Mr. Nelson is entitled to lost wages, he may recover the reasonable value of lost wages from the date of injury to the present time.

INSTRUCTION NO. 28

If you find Mr. Nelson is entitled to past loss of full mind and body, he may recover for loss of function of the mind and body from the date of injury to the present time. Loss of mind and body is the inability of a particular part of the mind or body to function in a normal manner.

INTERROGATORY NO. 29

If you find Mr. Nelson is entitled to future loss of full mind and body, he may recover the present value of future loss of function of the mind and body.

INSTRUCTION NO. 30

If you find Mr. Nelson is entitled to past physical and mental pain and suffering, he may recover for 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. 31

If you find Mr. Nelson is entitled to future physical and mental pain and suffering, he may recover the present value of future physical and mental pain and suffering.

INSTRUCTION NO. 32

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 Mr. Nelson for future losses.

INSTRUCTION NO. 33

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Mr. Nelson. Mr. Nelson is 43 years old. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Mr. Nelson's health, habits, occupation, and lifestyle, when deciding issues of future damages.

INSTRUCTION NO. 34

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. 35

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. 36

During the trial, you were 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. 37

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, X (f/k/a 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 the evidence that was 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.

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

INSTRUCTION NO. 38

Occasionally, after a jury retires to the deliberation 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 the same, and delivering the question to the Judicial Assistant. I cannot communicate with you without first discussing your question and potential answer with the parties and lawyers.

INSTRUCTION NO. 39

I am giving you one (1) verdict form with four (4) questions. During the first six (6) 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 (6) hours excluding meals or recesses outside your jury room, then it is necessary that only seven (7) of you agree upon the answers to the questions. In that case, the verdict and questions must be signed by all seven (7) jurors who agree.

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