

IN THE IOWA DISTRICT COURT FOR POLK COUNTY**CHONTE RONETTE DUNCAN,****Plaintiff,****v.****ESTATE OF DONELL K. ROTH****Defendants.****Case No. LACL151673****JURY INSTRUCTIONS**

JURY INSTRUCTION NO. 1

This case arises from a December 18, 2019 auto accident involving Chonte Ronette Duncan, Sherry Sinclair, and Donnell K. Roth. Ms. Roth passed away after the accident. Her death was not related to this accident. The defendant is the Estate of Donnell K. Roth. Defendant admits that Ms. Roth was at fault for the auto accident.

Plaintiff Chonte Ronette Duncan claims she was injured in the accident.

Defendants dispute the nature, cause, and extent of the injuries Ms. Duncan claims, as well as the amount of damages sought for the claimed injuries.

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.

JURY 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.

JURY INSTRUCTION NO. 3

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.

JURY 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.
3. Stipulations, which are agreements between the attorneys.
4. Any other matter admitted as evidence (e.g. answers to interrogatories, matters as to 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, 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.

JURY INSTRUCTION NO. 5

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

JURY 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.

JURY INSTRUCTION NO. 7

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.

JURY INSTRUCTION NO. 8

An expert witness was asked to assume certain facts were true and to give an opinion based on that assumption. That 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.

JURY INSTRUCTION NO. 9

You have heard evidence claiming Plaintiff 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 Plaintiff had made it under oath during the trial.

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

JURY INSTRUCTION NO. 10

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

JURY INSTRUCTIONS NO. 11

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

1. **Past Medical Expenses:** The reasonable cost of necessary hospital charges, doctor charges, prescriptions or other medical services from the date of injury to the present time. The reasonable and necessary cost shall not exceed the sum of the amounts actually paid by or on behalf of the Plaintiff to the health care providers who rendered treatment and any amounts actually necessary to satisfy the medical care charges that have been incurred but not yet satisfied.
2. **Past Loss of Function:** 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.
3. **Future Loss of Function:** The present value of future loss of function of the body.
4. **Past Physical and Mental Pain and Suffering:** 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.
5. **Future Physical and Mental Pain and Suffering:** The present value of future physical and mental pain and suffering.

The amount you assess for physical and mental pain and suffering in the past and future and 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.

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

JURY INSTRUCTIONS NO. 12

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

JURY INSTRUCTIONS NO. 13

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as the Plaintiff is 36.36 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about the Plaintiff's health, habits, occupation, and lifestyle, when deciding issues of future damages.

JURY INSTRUCTIONS NO. 14

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.

JURY INSTRUCTION NO. 15

If you find the Plaintiff had degenerative changes in her cervical spine before this accident, and this condition was aggravated by the accident, causing pain and disability, then she is entitled to recover damages caused by the aggravation. She is not entitled to recover for any physical ailment or disability which existed before this accident, or for any physical ailment or disability which she now has which were not caused by the accident.

JURY INSTRUCTIONS NO. 16

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 deliberation 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.

JURY INSTRUCTIONS NO. 17

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.

JURY INSTRUCTIONS NO. 18

I am giving you one (1) verdict form. 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 foreman or forewoman.

After deliberating for six hours from ^{12:33}~~12:00~~ o'clock ^{P.}~~A.~~.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 must be signed by all seven jurors who agree.

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

You may consider only
facts that are in evidence.

Please re-read the jury
instructions.

Pet A. Guit, Judge

What is the
date of Donnell
Roth's death?

Charlene Hluska

When did Chonte
first consult
an attorney?

Charlene Halesk

You may consider only
facts that are in evidence.

Please re-read the
jury instructions.

Peter A. H. Judge