

IN THE IOWA DISTRICT COURT FOR CERRO GORDO COUNTY

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ANGEL HERMAN,	)	
	)	Case No. LACV073357
Plaintiff,	)	
	)	
vs.	)	
	)	JURY INSTRUCTIONS
NEIL KRUGER, as personal representative	)	
of the ESTATE OF MAXINE M.	)	
KRUGER,	)	
	)	
Defendant.	)	

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## INSTRUCTION NUMBER 1

Members of the Jury: In this case, Plaintiff claims Maxine Kruger was negligent when her vehicle failed to yield to the vehicle in which plaintiff was a passenger causing a collision. Defendant has admitted Maxine Kruger was negligent. Plaintiff claims that she suffered injuries as a result of Maxine Kruger's negligence. Defendant disputes the nature and extent of Plaintiff's 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.

## INSTRUCTION NUMBER 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.

## INSTRUCTION NUMBER 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.

## INSTRUCTION NUMBER 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 may examine the exhibits closely, but be careful

not to alter or destroy them.

3. Stipulations, which are agreements between the attorneys.

Facts may be proved by direct evidence, circumstantial evidence, or a combination of both.

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 NUMBER 5

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 NUMBER 6

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. Similarly, you have heard testimony via video. Consider that testimony as if it had been given in court.

## INSTRUCTION NUMBER 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.

## INSTRUCTION NUMBER 8

The plaintiff must prove all of the following propositions:

1. Maxine Kruger was negligent in one or more of the following ways: Defendant has admitted that Maxine Kruger was negligent.
2. The negligence was a cause of damage to the plaintiff.
3. 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.



INSTRUCTION NUMBER 9

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

## INSTRUCTION NUMBER 10

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

***Loss of Full Mind and Body Damages (past):*** Loss of function of the mind and/or body from the date of injury to the present time. Loss of mind and/or body is the inability of a particular part of the mind, body to function in a normal manner.

***Physical and Mental Pain and Suffering Damages (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.

***Loss of Full Mind and Body Damages (future):*** The present value of future loss of function of the mind and/or body.

***Physical and Mental Pain and Suffering Damages (future):*** The present value of future physical and mental pain and suffering.

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

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

## INSTRUCTION NUMBER 11

If you find Angel Herman had a medical condition before this accident and this condition was aggravated by this accident causing further suffering, then she is entitled to recover damages caused by the aggravation. She is not entitled to recover for any physical ailment which existed before this accident or for any injuries or damages which she now has which were not caused by the Maxine Kruger's actions.

## INSTRUCTION NUMBER 12

If Angel Herman had a medical condition making her more susceptible to injury than a person in normal health, then the defendant is responsible for all injuries and damages which are experienced by Angel Herman that are caused by Maxine Kruger's actions, even though the injuries claimed produce a greater injury than those which might have been experienced by a normal person under the same circumstances.

## INSTRUCTION NUMBER 13

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 NUMBER 14

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Plaintiff is 81 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Angel Herman's health, habits, occupation, and lifestyle, when deciding issues of future damages.

## INSTRUCTION NUMBER 15

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 NUMBER 16

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 NUMBER 17

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Blackberry, or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, LinkedIn, YouTube, Twitter or X, Snapchat, Instagram, email, etc., to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict.

Your cell phones must be turned off during deliberations. If the length of deliberation causes you to need to make a call regarding personal arrangements such as child care or other scheduling issues, you may make such calls when the jury takes a break and temporarily stops deliberations, but you must not discuss the case until after you have reached your verdict and I have released you from jury duty.

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 is 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.

## INSTRUCTION NUMBER 18

When you begin your deliberations, you should select a foreperson. He or she shall see that your deliberations are carried on in an orderly manner, that the issues are fully and freely discussed, and that every juror is given an opportunity to express his or her views.

In order to return a verdict, each juror must agree to it. Your verdict must be unanimous.

It is your duty as jurors to consult with one another and reach an agreement, if you can do so without compromising your individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with the other jurors. There is no reason to think that another trial would be tried in a better way or that a more conscientious, impartial or competent jury would be selected.

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.

During your deliberations, do not hesitate to re-examine your view and change your opinion if convinced it is wrong. But do not change your opinion as to the weight or effect of the evidence just because it is the opinion of the other jurors, or for the mere purpose of returning a verdict.

If you need to communicate with me during your deliberations, you may send a note to me through the court attendant, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court.

Remember that you are not partisans; you are judges – judges of the facts. Your sole duty is to find the truth and do justice.

## INSTRUCTION NUMBER 19

I am giving you a verdict form and 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 foreperson.

After deliberating for six hours from 2:34 o'clock p.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 form and questions must be signed by all seven jurors who agree.

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

Dated this 1<sup>st</sup> day of May, 2025.

  
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Judge of the Iowa District Court