

IN THE IOWA DISTRICT COURT FOR FLOYD COUNTY

BRITTANY HEMANN, individually and as mother and next friend of ISAAC HEMANN, a minor, Plaintiffs, vs. RYAN WEGNER, Defendant.	2026 JUN 18 PM 12:37 Law No. LACV031961 CLERK OF DISTRICT COURT FLOYD COUNTY, IOWA JURY INSTRUCTIONS
--	--

INSTRUCTION NO. 1

On February 13, 2021, Ryan Wegner drove his Ford F-150 pickup eastbound on 170th Street, rural Charles City, Floyd County, Iowa. Ryan Wegner drove the pickup off the roadway to the right, striking a tree with the front passenger side of the pickup. Brittany Hemann was the front seat passenger in the Ford F-150.

Ryan Wegner admits his conduct was negligent. Brittany Hemann claims that Ryan Wegner's negligent conduct caused her damages. The parties dispute the 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.

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 likes or dislikes, 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. 3

Whenever a party must prove something, they must do so by a 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. 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 (e.g. answers to interrogatories, matters which judicial notice was taken, etc.).

Evidence may be direct or circumstantial. Direct evidence is evidence from a witness who claims actual knowledge of a fact, such as an eyewitness. Circumstantial evidence is evidence about a chain of circumstances pointing to the existence or nonexistence of certain facts. The law makes no distinction between direct evidence and circumstantial evidence. 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. 5

Certain testimony has been presented in a video recording of 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. The same applies to any video recording of a video deposition.

INSTRUCTION NO. 6

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. 7

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 witness' 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. 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 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 the party had made it under oath during 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 are not required to do so. You should not disregard the party's testimony during the trial if other credible evidence supports it, or if you believe it for any other reason.

INSTRUCTION NO. 10

In these instructions, I will be using the term "fault." Fault means one or more acts or omissions towards another which constitutes negligence.

INSTRUCTION NO. 11

"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, for the protection of others from unreasonable risks of harm.

INSTRUCTION NO. 12

"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. 13

Primary factors to consider in ascertaining whether the person's conduct lacks ordinary care are the foreseeable likelihood that the person's conduct will result in harm, the foreseeable severity of any harm, and the burden of precautions to eliminate or reduce the risk of harm.

INSTRUCTION NO. 14

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

INSTRUCTION NO. 15

Ryan Wegner has admitted his conduct was negligent.

Plaintiff, Brittany Hemann, must prove all of the following propositions:

1. The negligent conduct of Ryan Wegner was a cause of damage to the plaintiff, Brittany Hemann.
2. The amount of damage.

If Hemann has failed to prove both of these propositions, Hemann is not entitled to damages. If Hemann has proven both of these propositions, Hemann is entitled to damages in some amount.

INSTRUCTION NO. 16

If Brittany Hemann had a prior condition making her more susceptible to injury than a person in normal health, then Ryan Wegner is responsible for all injuries and damages which are experienced by Brittany Hemann caused by Ryan Wegner, 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 NO. 17

If you find that Brittany Hemann had a pre-existing condition before the crash and this condition was aggravated by the crash causing further suffering, then plaintiff is entitled to recover damages caused by the aggravation. Plaintiff is not entitled to recover for any physical ailment or disability which existed before this incident, or for any injuries or damages which she had after the incident which were not caused by Ryan Wegner's conduct.

INSTRUCTION NO. 18

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

1. Brittany Hemann's 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.
2. The present value of Brittany Hemann's future physical and mental pain and suffering.
3. Brittany Hemann's loss of function of the mind or body from the date of injury to the present time. Loss of mind body is the inability of a particular part of the mind or body to function in a normal manner.
4. The present value of Brittany Hemann's future loss of function of the mind or body.

The amount you assess for physical and mental pain and suffering in the past and future, and loss of function of the mind or body in the past and future cannot be measured by any exact or mathematical standard. Plaintiff is not seeking an award for future medical expenses, and you are not to include future medical expenses as any other item of damage. 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 be more or less than the full and fair 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. 19

"Parental consortium" is the relationship between parent and child and the right of the child to the benefits of companionship, comfort, guidance, affection, the aid of the parent in every parental relation, general usefulness, industry and attention within the family. It does not include the loss of financial support from the injured parent, nor mental anguish caused by the parent's injury.

If you find Brittany, as parent of Isaac, is entitled to recover damages on behalf of the child, it is your duty to determine the amount. In doing so, you shall consider the following items;

1. The reasonable value of loss of parental consortium which Isaac would otherwise have received from the date of injury until the present time.
2. The present value of loss of parental consortium which Isaac would otherwise have received in the future.

INSTRUCTION NO. 20

A child is not entitled to damages for loss of parental consortium unless the injury to the parent has caused a significant disruption or diminution of the parent-child relationship.

Damages for loss of parental consortium are limited in time to the shorter of the child's or parent's normal life expectancy.

In determining the value for loss of parental consortium, you may consider:

1. The circumstances of the injured parent's life.
2. Brittany's and Isaac's ages at the time of Brittany's injury.
3. The health, strength, character, and life expectancy of the injured parent and child.
4. The injured parent's capabilities and efficiencies in performing the duties as a parent.
5. The injured parent's skills and abilities in providing instruction, guidance, advice, and assistance to the child.
6. The child's needs.
7. All other facts and circumstances bearing on the issue.

The amount you assess for loss of parental consortium past, present, 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 the defendant 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. 21

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Brittany Hemann is, 42.94 additional years. The statistics from a Standard Mortality Table are not conclusive. You may use this information together with all the other evidence about Brittany Hemann's health, habits, occupation, and lifestyle when deciding issues of future damages.

INSTRUCTION NO. 22

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. The reduction to present value may be offset by inflation.

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 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. 26

You may not communicate about this case before reaching your verdict. This includes cellphones, and electronic media such as text messages, Facebook, Instagram, TikTok, 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.

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

DATED: June 18, 2020
10:16 AM



DeDra Schroeder, Judge, Second Judicial District of Iowa