IN THE LINN COUNTY IOWA DISTRICT COURT

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CLERK OF DISTRICT COURT
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LINN COUNTY, IOWA

DON STATON,	)	
	)	
Plaintiff,	)	No. LACV105388
	)	
vs.	)	STATEMENT OF THE CASE AND
	)	INSTRUCTIONS TO THE JURY
DANNY ELSBURY,	)	
	)	
Defendant.	)	

Members of the Jury:

In this case Plaintiff Don Staton was driving his motorcycle southbound on Edgewood Rd SW in Cedar Rapids when he collided with the rear of a vehicle which was also southbound on Edgewood Road SW and was driven by Defendant Danny Elsbury.

Staton claims Danny Elsbury is at fault for this collision and responsible for Staton's damages.

Elsbury claims that Staton was at fault with regard to the collision. Elsbury claims that Staton failed to mitigate his damages. Elsbury disputes the amount of damages claimed by Staton.

Do not consider this summary proof of any claim. You must decide the facts from the evidence and decide the law which I will now give you.

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 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 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, 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 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.

INSTRUCTION NO. 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 NO. 6

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.

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.

INSTRUCTION NO. 8

You have heard evidence claiming Don Staton and/or Danny Elsbury 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 he had made it under oath during the trial.

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

INSTRUCTION NO. 9

In these instructions, the term "vehicle" includes a motorcycle.

INSTRUCTION NO. 10

In these instructions I will be using the term "fault". Fault means one or more acts or omissions towards the person or property of the actor or of another which constitutes negligence or an unreasonable failure to mitigate damages.

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.

A violation of ordinary care is negligence.

INSTRUCTION NO. 12

Don Staton claims Danny Elsbury was at fault.

These grounds of fault will be explained to you in other instructions.

Don Staton must prove all of the following propositions:

1. Danny Elsbury was at fault. In order to prove fault, Don Staton must prove Danny Elsbury failed to keep a proper lookout, and/or improperly turned from a direct course, and/or improperly changed lanes.
2. Danny Elsbury's fault was a cause of Don Staton's damage.
3. The amount of damage.

If Don Staton has failed to prove all of these propositions, he is not entitled to damages. If Don Staton has proven all of these propositions, you will consider the defense of comparative fault as explained in Instruction Nos. 13.

INSTRUCTION NO. 13

Danny Elsbury claims that Don Staton was at fault.

These grounds of fault have been explained to you in other instructions.

Danny Elsbury must prove both of the following numbered propositions:

1. Don Staton was at fault. In order to prove fault, Danny Elsbury must prove Don Staton was negligent by:

a. Failing to keep a proper lookout;

b. Failing to maintain control of his motorcycle;

c. Failing to stop within the assured clear distance;

d. Exceeding the speed limit;

e. Following the Elsbury vehicle too closely;

f. Driving a motorcycle while under the influence of amphetamines;

g. Driving a motorcycle with tires that needed to be replaced;

h. Driving a motorcycle with underinflated tires.

2. Don Staton's fault was a cause of Don Staton's damage.

If Danny Elsbury has failed to prove either of these numbered propositions, the Danny Elsbury has not proved his defense. If Danny Elsbury has proved both of these numbered propositions, then you will assign a percentage of fault against Don Staton and include Don Staton's fault in the total percentage of fault found by you answering the special verdicts.

INSTRUCTION NO. 14

At the time and place, and with the motor vehicles involved in this case, any speed over 35 miles per hour was unlawful.

A violation of this law is negligence.

INSTRUCTION NO. 15

"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 driver need not keep a lookout to the rear all the time, but must be aware of the presence of others when the driver's actions may be dangerous to others.

A violation of this duty is negligence.

INSTRUCTION NO. 16

A driver shall not turn a vehicle from a direct course on a road unless the movement can be made with reasonable safety and after giving an appropriate signal if any other vehicle may be affected by the movement. The signal to turn right must be continuously given during at least the last 300 feet travelled by the vehicle before turning. The signal may be given by hand or by a mechanical or electrical lamps on the front of the vehicle, and a red, yellow or amber lamp or lamps on the rear of the vehicle. These signal devices shall be capable of clearly indicating any intention to turn either to the right or to the left, and shall be visible and understandable during both daylight and darkness from a distance of at least 100 feet from the front and rear of the vehicle.

A violation of this law is negligence.

INSTRUCTION NO. 17

A driver shall not turn a vehicle from a direct course on a highway unless the movement can be made with reasonable safety.

A violation of this law is negligence.

INSTRUCTION NO. 18

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. 19

No person shall drive any vehicle on a highway 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, may be seen.

A violation of this law is negligence.

INSTRUCTION NO. 20

The driver of a vehicle shall not follow another vehicle closer than is reasonable, considering the speed of the vehicles, the traffic and the condition of the highway.

A violation of this law is negligence.

INSTRUCTION NO. 21

Driving a motorcycle while "under the influence" means operating a motor vehicle while having a measurable amount of a controlled substance in the person.

INSTRUCTION NO. 22

It is unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved on any highway, any vehicle or combination of vehicles which is equipped with one or more unsafe tires.

INSTRUCTION NO. 23

Both drivers had a right to use the road, but each 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. 24

Defendant claims Plaintiff was at fault for failing to mitigate his damages by not exercising ordinary care to follow medical advice and treatment and exercising ordinary care when Plaintiff refused to stop smoking after repeatedly being told by healthcare professionals that smoking interfered with healing of his injuries and wounds.

Plaintiff has a duty to exercise ordinary care to reduce, minimize or limit his damages. However, Plaintiff has no duty to do something that is unreasonable under the circumstances, such as undertaking action which imposes unreasonable inconvenience.

To prove Defendant's claim of failure to mitigate, he must prove all of the following:

1. There was something Plaintiff could do to mitigate his damages;

2. Requiring Plaintiff to do so was reasonable under the circumstances;

3. Plaintiff acted unreasonable in failing to undertake the mitigating activity; and

4. Plaintiffs failure to undertake the mitigating activity caused an identifiable portion of his damages.

If the Defendant has proved all of these numbered propositions, then Defendant has proved this defense, and you shall assign a percentage of fault to the Plaintiff for the time period after the failure to mitigate. This amount will be used in answering the special interrogatory in the verdict. If the Defendant has failed to prove one or more of these numbered propositions, then Defendant has not proved Plaintiff failed to mitigate his damages.

INSTRUCTION NO. 25

You must decide whether the claimed harm to Don Staton is within the scope of Danny Elsbury's liability. Don Staton's claimed harm is within the scope of Danny Elsbury's liability if that harm arises from the same general types of danger that Danny Elsbury should have taken reasonable steps to avoid.

Consider whether repetition of Danny Elsbury's conduct makes it more likely harm of the type Don Staton claims to have suffered would happen to another. If not, the harm is not within the scope of liability.

INSTRUCTION NO. 26

Damages may be the fault of more than one person. In comparing fault, you should consider all of the surrounding circumstances as shown by the evidence, together with the conduct of Don Staton and Danny Elsbury and the extent of the causal relation between their conduct and the damages claimed. You should then determine what percentage, if any, each person's fault contributed to the damages.

INSTRUCTION NO. 27

After you have compared the conduct of all parties, if you find Don Staton was at fault and Don Staton's fault was more than 50% of the total fault, Don Staton cannot recover damages.

However, if you find Don Staton fault was 50% or less of the total fault, then I will reduce the total damages by the percentage of Don Staton's fault.

INSTRUCTION NO. 28

In arriving at an item of damage or any percentage of fault 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. 29

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

INSTRUCTION NO. 30

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

1. Past Medical Expenses. The reasonable cost of necessary medical expenses from 05/16/2024 to the present time.

   In determining the reasonable cost of necessary medical expenses, you may consider the amount charged, the amount paid or any other evidence of what is reasonable and proper for such medical expense.

2. Loss of time - Earnings. The reasonable value of lost wages from 05/16/2024 to the present time.

3. Loss of Full Mind and Body - Past. Loss of function of the mind and body from the date of injury to the present time. Loss of mind or body is the inability of a particular part of the mind or body to function in a normal manner.

4. Physical and Mental Pain and Suffering - 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.

The amount you assess for physical and mental pain and suffering in the past, and loss of function of the mind and body in the past 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. 31

If you find that Don Staton received medical treatment as a result of the May 16, 2024, collision, and Danny Elsbury is at least 50% at fault, then you must award damages in some amount for pain and suffering.

INSTRUCTION NO. 32

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 NO. 33

You may not communicate about this case before reaching your verdict. This includes cell phones, and electronic media such as text messages email, electronic messaging applications, and any social media platform including but not limited to Facebook, LinkedIn, YouTube, Twitter, TikTok, Instagram, Snapchat, and any other social media applications you may use.

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.

INSTRUCTION NO. 34

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. 35

I am giving you one verdict form 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 9:54 o'clock 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 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.

INSTRUCTION NO. 35

I am giving you one verdict form 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.

Dated this 16th day of October, 2026.

Chad A. Kepros
District Court Judge

IN THE LINN COUNTY IOWA DISTRICT COURT

DON STATON,	)	
	)	
Plaintiff,	)	No. LACV105388
	)	
vs.	)	VERDICT
	)	
DANNY ELSBURY,	)	
	)	
Defendant.	)	

We find the following verdict on the questions submitted to us:

Question No. 1: Was Danny Elsbury at fault?

Answer "yes" or "no."

ANSWER: yes

[If your answer is "no," do not answer any further questions.]

Question No. 2: Was the fault of Danny Elsbury a cause of any item of damage to Don Staton?

Answer "yes" or "no."

ANSWER: no

[If your answer is "no", do not answer any further questions.]

Question No. 3: Was any item of damage to Don Staton within the scope of Danny Elsbury's liability?

Answer "yes" or "no."

ANSWER: _____

[If your answer is "no", do not answer any further questions.]

Question No. 4: Was Don Staton at fault?

Answer "yes" or "no."

ANSWER: _____

[If your answer is "no," do not answer Questions No. 5 or 6.]

Question No. 5: Was Don Staton's fault a cause of any damage to Don Staton?

Answer "yes" or "no."

ANSWER: _____

[If your answer is "no," do not answer Question No. 6.]

Question No. 6: Was any item of damage to Don Staton within the scope of Don Staton's liability?

Answer "yes" or "no."

ANSWER: _____

[If your answer is "no," do not answer Question No. 7.]

Question No. 7: Using 100% as the total combined fault of Don Staton and Danny Elsbury, which was a cause of Don Staton's damage [and within the scope of liability], what percentage of such combined fault do you assign to Don Staton and what percentage of such combined fault do you assign to the Danny Elsbury?

ANSWER: Don Staton _____%

Danny Elsbury _____%

TOTAL 100%

[If you find plaintiff to be more than 50% at fault, do not answer Question No. 8.]

Question No. 8: State the amount of damages sustained by Don Staton by Danny Elsbury's fault [and within the scope of Danny Elsbury's liability] as to each of the following items of damage. Do not take into consideration any reduction of damages due to Don Staton's fault. If Don Staton has failed to prove any item of damage or has failed to prove that any item of damage was caused by Danny Elsbury 's fault [or within the scope of Danny Elsbury's liability], enter 0 for that item.

1. Past medical expenses $_____
2. Loss of time – Earnings $_____
3. Past physical impairment $_____
4. Past pain and suffering $_____

TOTAL (add the separate items of damage) $ _____

FOREPERSON

JURORS CONCURRING (after 6 hours of deliberations)

_____	_____
_____	_____
_____	_____