

IN THE DISTRICT COURT FOR POTTAWATTAMIE COUNTY, IOWA

CHRISTINE KELLOGG,

Plaintiff,

v.

HARVEY'S IOWA MANAGEMENT  
COMPANY, INC., d/b/a HARRAH'S  
COUNCIL BLUFFS CASINO and HOTEL,

Defendant.

Case No. 04781 LACV118387

**DEFENDANT'S PROPOSED  
JURY INSTRUCTIONS**

Defendant Harveys Iowa Management Company, Inc. d/b/a Harrah's Council Bluffs Casino and Hotel hereby request the following pattern Iowa Civil Jury Instructions:

1.	100.1	15.	100.20	29.	400.2
2.	100.2	16.	100.21	30.	400.3
3.	100.3	17.	100.23	31.	400.6
4.	100.4	18.	200.1	32.	400.8
5.	100.5	19.	200.6	33.	700.2
6.	100.6	20.	200.10	34.	700.3
7.	100.8	21.	200.12	35.	700.4
8.	100.9	22.	200.32	36.	700.8
9.	100.11	23.	200.33	37.	700.12
10.	100.12	24.	200.38	38.	900.1
11.	100.13	25.	300.1	39.	900.5
12.	100.14	26.	300.4	40.	900.6
13.	100.15	27.	300.8	41.	900.7
14.	100.18	28.	400.1		

Defendant further submits the attached proposed modified pattern Iowa Civil Jury Instructions, statement of the case, and verdict form.

HARVEYS IOWA MANAGEMENT COMPANY, INC.  
D/B/A HARRAH'S COUNCIL BLUFFS CASINO AND  
HOTEL, Defendant

By: /s/ Thomas M. Braddy  
For: LOCHER PAVELKA DOSTAL  
BRADDY & HAMMES, LLC  
200 The Omaha Club  
2002 Douglas Street  
Omaha, Nebraska 68102  
(402) 898-7000  
Thomas M. Braddy, #AT0001143  
and  
421 W. Broadway, #401  
Council Bluffs, Iowa 51503  
(712) 256-5566

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 15<sup>th</sup> day of September, 2020, the above and foregoing was served electronically upon the following:

Daniel J. McGinn  
McGinn, Springer & Noethe  
[dmcginn@mcginnlawfirm.com](mailto:dmcginn@mcginnlawfirm.com)

/s/ Thomas M. Braddy

IN THE DISTRICT COURT FOR POTTAWATTAMIE COUNTY, IOWA

CHRISTINE KELLOGG,

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HARVEY'S IOWA MANAGEMENT  
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Defendant.

Case No. 04781 LACV118387

**PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS OF  
DEFENDANT HARVEYS IOWA MANAGEMENT COMPANY, INC.  
d/b/a HARRAH'S COUNCIL BLUFFS CASINO AND HOTEL**

PREPARED AND SUBMITTED BY:

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**STATEMENT OF THE CASE**

Members of the Jury:

November 23, 2016, Plaintiff Christine Kellogg was a guest at Defendant Harveys Iowa Management Company, Inc. d/b/a Harrah's Council Bluffs Casino and Hotel's property when she slipped and fell on a yellow painted directional arrow in the "DROP OFF" lane of the driveway at the entrance and alleges she sustained various injuries as a result. She claims Defendant was negligent as follows:

1. Defendant negligently failed to keep the entryway clean and safe for pedestrian safety.
2. Defendant failed to warn the plaintiff and others of the dangerous condition.

She alleges she sustained permanent personal injuries and claims past medical expenses, past and future pain and suffering, permanent physical impairment, and past and future loss of function of the full body.

Defendant denies it was at fault for Plaintiff's claimed injury and damages and asserts that Plaintiff was negligent in the following particulars:

- a. In failing to maintain a proper lookout;
- b. In failing to exercise ordinary care for her own safety; and
- c. In failing to take action to avoid injury.

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. \_\_\_\_\_**

**DUTIES OF JUDGE AND JURY, INSTRUCTIONS AS WHOLE**

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.

**JURY INSTRUCTION NO. \_\_\_\_\_**

**BURDEN OF PROOF, PREPONDERANCE OF EVIDENCE**

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. \_\_\_\_\_**

**EVIDENCE**

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 this courtroom.

**JURY INSTRUCTION NO. \_\_\_\_\_**

**DEPOSITION TESTIMONY**

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.

*Iowa Civil Jury Instruction No. 100.5*



**JURY INSTRUCTION NO. \_\_\_\_\_**

**INTERROGATORIES**

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.

**JURY INSTRUCTION NO. \_\_\_\_\_**

**STIPULATED TESTIMONY**

Counsel have stipulated that if ... were called as a witness [he][she] would testify as stipulated. Consider stipulated testimony as if it had been given in court.

*Iowa Civil Jury Instruction No. 100.8*

**JURY INSTRUCTION NO. \_\_\_\_\_**

**CREDIBILITY OF WITNESSES**

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 that 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. \_\_\_\_\_**

**HYPOTHETICAL QUESTION, EXPERT TESTIMONY**

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.

**JURY INSTRUCTION NO. \_\_\_\_\_**

**OPINION EVIDENCE, EXPERT WITNESS**

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. \_\_\_\_\_**

**CONTRADICTORY STATEMENT – NON-PARTY – WITNESS NOT UNDER OATH**

You have heard evidence claiming [name of witness] made statements before this trial while not under oath which were inconsistent with what the witness said in this trial.

Because the witness did not make the earlier statements under oath, you may use them only to help you decide if you believe the witness.

Decide if the earlier statements were made and whether they were inconsistent with testimony given at trial. You may disregard all or any part of the testimony if you find the statements were made and they were inconsistent with the testimony given at trial, but you are not required to do so.

Do not disregard the testimony if other evidence you believe supports it or if you believe it for any other reason.

**JURY INSTRUCTION NO. \_\_\_\_\_**

**CONTRADICTORY STATEMENTS, NON-PARTY, WITNESS UNDER OATH**

You have heard evidence claiming [name of witness] made statements before this trial while under oath which were inconsistent with what [name of witness] said in this trial. If you find these statements were made and were inconsistent, then you may consider them as part of the evidence, just as if they had been made at this trial.

You may also use these statements to help you decide if you believe [name of non-party witness]. You may disregard all or any part of the testimony if you find the statements were made and were inconsistent with the testimony given at trial, but you are not required to do so. Do not disregard the trial testimony if other evidence you believe supports it, or if you believe it for any other reason.

**JURY INSTRUCTION NO. \_\_\_\_\_**

**STATEMENTS BY A PARTY OPPONENT**

You have heard evidence claiming Plaintiff made statements before this trial while 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 her testimony during the trial but you are not required to do so. You should not disregard her testimony during the trial if other credible evidence supports it or if you believe it for any other reason.



**JURY INSTRUCTION NO. \_\_\_\_**

**CORPORATE PARTY**

The fact that Defendant is a corporation should not affect your decision. All persons are equal before the law, and corporations, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

**JURY INSTRUCTION \_\_\_\_**

**USE OF ELECTRONIC DEVICES.**

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, 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. [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.

**JURY INSTRUCTION NO. \_\_\_\_**

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

1. The reasonable value 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 expense;
2. The loss of Plaintiff's 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. Physical and mental pain and suffering from the date of injury to the present time of Plaintiff. 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; and

The amount you assess for physical and mental pain and suffering in the past and the 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 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 these special verdicts.

*Iowa Civil Jury Instruction No. 200.1, 200.6, 200.10, and 200.12.*

**JURY INSTRUCTION NO. \_\_\_\_\_**

**AGGRAVATION OF PRE-EXISTING CONDITION.**

If you find Plaintiff had a condition in her right leg and knee before this incident and this condition or conditions were aggravated or made active by this incident causing further suffering or 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 incident or for any injuries or damages which she now has which were not caused by the Defendant's actions.

**JURY INSTRUCTION NO. \_\_\_\_\_**

**NO RECOVERY FOR SECOND INJURY**

If you find Plaintiff was injured by another act after this incident, she cannot recover for any later injury or aggravation of injury not caused by this incident.

*Iowa Civil Jury Instruction No. 200.33*

**JURY INSTRUCTION NO. \_\_\_\_\_**

**QUOTIENT VERDICT**

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.

**JURY INSTRUCTION NO. \_\_\_\_\_**

**FAULT - DEFINED**

In these instructions I will be using the term “fault.” Fault means one or more acts or omissions towards the person or the acts of another which constitutes negligence or unreasonable failure to avoid an injury.

**JURY INSTRUCTION NO. \_\_\_\_\_**

**COMPARATIVE FAULT**

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 Plaintiff and Defendant 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.



**JURY INSTRUCTION NO. \_\_\_\_\_**

**COMPARATIVE FAULT – EFFECTS OF VERDICT**

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

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

**JURY INSTRUCTION NO. \_\_\_\_\_**

**UNREASONABLE FAILURE TO AVOID AN INJURY - DEFINED**

A party is required to exercise reasonable care for their own safety. This means that, if, in the exercise of ordinary care under the circumstances, a party could have taken some particular action after an act of fault of another party, in order to avoid an injury, then they are under a duty to take such action.

**JURY INSTRUCTION NO. \_\_\_\_\_**

**ORDINARY CARE – COMMON LAW NEGLIGENCE - DEFINED**

“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.

*Iowa Civil Jury Instructions No. 700.2*

**JURY INSTRUCTION NO. \_\_\_\_\_**

**CAUSE - DEFINED**

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

**JURY INSTRUCTION NO. \_\_\_\_\_**

**CONCURRENT CAUSE - DEFINED**

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.

*Iowa Civil Jury Instruction No. 700.4*

**JURY INSTRUCTION NO. \_\_\_\_\_**

**ACCIDENT DOES NOT CONSTITUTE OR RAISE PRESUMPTION OF NEGLIGENCE**

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

**JURY INSTRUCTION NO. \_\_\_\_\_**

**PROPER LOOKOUT**

“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 one’s movements in relation to things seen or that could have been seen in the exercise of ordinary care.

**JURY INSTRUCTION NO. \_\_\_\_\_**

**ESSENTIALS FOR RECOVERY - CONDITION OF PREMISES - DUTY TO LAWFUL VISITORS**

The Plaintiff must prove all of the following propositions:

1. The Defendant knew or in the exercise of reasonable care should have known of a condition on the premises and that it involved an unreasonable risk of injury to a person in the Plaintiff's position.
2. The Defendant knew or in the exercise of reasonable care should have known:
  - a. The Plaintiff would not discover the condition, or
  - b. The Plaintiff would not realize the condition presented an unreasonable risk of injury, or
  - c. The Plaintiff would not protect herself from the condition.
3. The Defendant was negligent in one or more of the ways alleged by Plaintiff:
  - a. Failing to keep the entryway clean and safe for pedestrian safety; and
  - b. Failing to warn the plaintiff and others of the dangerous condition.
4. The negligence was a proximate cause of the Plaintiff's damage.
5. The nature and extent 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, then you will consider the defense of \_\_\_\_\_ as explained in Instruction No. \_\_\_\_\_.

*Iowa Civil Jury Instruction No. 900.1*



**JURY INSTRUCTION NO. \_\_\_\_\_**

**COMPARATIVE FAULT – SINGLE DEFENDANT – ESSENTIALS FOR DEFENSE**

The Defendant claims the Plaintiff was at fault in one or more of the following particulars:

- a. In failing to maintain a proper lookout;
- b. In failing to exercise ordinary care for her own safety; and
- c. In failing to take action to avoid injury.

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

The Defendant must prove both of the following propositions:

1. Plaintiff was at fault in one or more of the ways claimed by Defendant; and
2. Plaintiff's fault was a cause of the Plaintiff's damage.

If the Defendant has failed to prove either of these propositions, the Defendant has not proved its defense. If the Defendant has proved both of these propositions, then you will assign a percentage of fault against the Plaintiff and include the Plaintiff's fault in the total percentage of fault found by you answering the special verdicts.

**JURY INSTRUCTION NO. \_\_\_\_**

**CONDITION OF THE PREMISES - KNOWLEDGE OR NOTICE OF THE CONDITION**

The owner of premises is presumed to know all conditions on the premises that are caused or created by the owner or the owner's employees. The owner or occupant of premises is not responsible for an injury suffered by a person on the premises which resulted from a condition of which the owner had no knowledge, unless the condition existed for a long enough time that in the exercise of reasonable care the owner should have known about it.

**JURY INSTRUCTION NO. \_\_\_\_**

**KNOWN OR OBVIOUS**

Concerning number 2 of Instruction No. [900.1], a defendant is not liable for injuries or damages caused by a condition that is known or obvious to a person in the Plaintiff's position unless the Defendant should anticipate the harm despite such knowledge or obviousness.

*Iowa Civil Jury Instruction No. 900.6*

**JURY INSTRUCTION NO. \_\_\_\_**

**KNOWN OR OBVIOUS – DEFINED**

A condition is "known" if one is aware of conscious of its existence and of the risk of harm it presents.

A condition is "obvious" when both the condition and risk of harm are apparent to and would be recognized by a reasonable person, in the position of a visitor, exercising ordinary perception, intelligence, and judgment.

*Iowa Civil Jury Instruction No. 900.7*

**JURY INSTRUCTION NO. \_\_\_\_**

**CAUTIONARY INSTRUCTION – JUROR’S NOTES**

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 INSTRUCTION NO. \_\_\_\_**

**GENERAL INSTRUCTION TO JURY**

Upon retiring you shall select a foreman or a forewoman. It will be his or her duty to see discussion 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.

**JURY INSTRUCTION NO. \_\_\_\_\_**

**RETURN OF VERDICT – FORMS OF VERDICT**

I am giving you one 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 \_\_\_\_\_ o'clock \_\_\_\_\_.m. excluding meals or recesses outside your jury room, then it is necessary that only (seven)(six)\* of you agree upon the answers to the questions. In that case, the verdict must be signed by all (seven)(six)\* jurors who agree.

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

IN THE IOWA DISTRICT COURT FOR POTTAWATTAMIE COUNTY

CHRISTINE KELLOGG,

Plaintiff,

v.

HARVEY'S IOWA MANAGEMENT  
COMPANY, INC., d/b/a HARRAH'S  
COUNCIL BLUFFS CASINO and HOTEL,

Defendant.

Law No. 04781 LACV 118387

**DEFENDANT'S  
PROPOSED VERDICT FORM NO. 1**

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

**Question No. 1:** Was the Defendant at fault?

Answer "yes" or "no."

ANSWER: \_\_\_\_\_

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

**Question No. 2:** Was the fault of the Defendant a cause of any item of damage to the Plaintiff?

Answer "yes" or "no."

ANSWER: \_\_\_\_\_

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

**Question No. 3:** Was the Plaintiff at fault?

Answer "yes" or "no."

ANSWER: \_\_\_\_\_

[If your answer is "no," do not answer Questions No. 4 or 5.]

**Question No. 4:** Was the Plaintiff's fault a cause of any item of damage to the Plaintiff?



Answer "yes" or "no."

ANSWER: \_\_\_\_\_

[If your answer is "no," do not answer Question No. 5.]

**Question No. 5:** Using 100% as the total combined fault of Plaintiff and Defendant which was a cause of Plaintiff's damages, what percentage of such combined fault do you assign to the Plaintiff and what percentage of combined fault do you assign to the Defendant?

ANSWER: Plaintiff \_\_\_\_\_%

Defendant \_\_\_\_\_%

Total: 100%

[If you find Plaintiff to be more than 50% at fault, do not answer Question No. 6.]

**Question No. 6:** State the amount of damages sustained by the Plaintiff caused by the Defendant's fault as to each of the following items of damage. Do not take into consideration any reduction of damages due to Plaintiff's fault. If the Plaintiff has failed to prove that any item of damage was caused by Defendant's fault, enter 0 for that item.

- |    |   |          |
|----|---|----------|
| 1. | Plaintiff's past medical expenses             | \$ _____ |
| 2. | Plaintiff's past pain and suffering           | \$ _____ |
| 3. | Plaintiff's past loss of function of the body | \$ _____ |

TOTAL (add the separate items of damage) \$ \_\_\_\_\_

**Question No. 7:** Were any of Plaintiff's damages paid by \_\_\_\_\_?

Answer "yes" or "no."

ANSWER: \_\_\_\_\_

[If your answer is "no," do not answer the remaining questions.]

**Question No. 8:** Will any amounts paid by \_\_\_\_\_ have to be refunded by Plaintiff to \_\_\_\_\_?

Answer "yes" or "no."

ANSWER: \_\_\_\_\_

[If your answer is “yes,” you may not reduce any item of damage for benefits which must be refunded by Plaintiff to \_\_\_\_\_.]

**Question No. 9:** What amount of damages already paid by \_\_\_\_\_ is to be refunded to \_\_\_\_\_?

ANSWER: \$\_\_\_\_\_

The Defendant has the burden to prove the amounts which have been or will be paid by collateral sources. The Plaintiff has the burden to prove the amounts which have been or will be required to be refunded to collateral sources.

\_\_\_\_\_  
FOREMAN OR FOREWOMAN\*

\* To be signed only if verdict is unanimous

\_\_\_\_\_  
Juror\*\*

\_\_\_\_\_  
Juror\*\*

\_\_\_\_\_  
Juror\*\*

\_\_\_\_\_  
Juror\*\*

\_\_\_\_\_  
Juror\*\*

\_\_\_\_\_  
Juror\*\*

\_\_\_\_\_  
Juror\*\*

\*\*To be signed by the jurors agreeing to it after six hours or more of deliberation.

*Iowa Civil Jury Instruction Nos. 300.4 and 300.8*

HARVEYS IOWA MANAGEMENT COMPANY, INC.  
D/B/A HARRAH'S COUNCIL BLUFFS CASINO AND  
HOTEL, Defendant

By: /s/ Thomas M. Braddy  
For: LOCHER PAVELKA DOSTAL  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 15<sup>th</sup> day of September, 2020, the above and foregoing was sent electronically upon the following:

Daniel J. McGinn  
McGinn, Springer & Noethe  
[dmcginn@mcginnlawfirm.com](mailto:dmcginn@mcginnlawfirm.com)

/s/ Thomas M. Braddy