

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

ALAN R. STEIL,	)	No. LACV 079537
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANTS' PROPOSED
	)	JURY INSTRUCTIONS
JILL BONSTALL, and DAN DEERY MOTOR CO.	)	
OF WATERLOO, INC. d/b/a DAN DEERY	)	
TOYOTA	)	
	)	
Defendants.	)	

COME NOW the Defendants, Jill Bonsall and Dan Deery Motor Co. of Waterloo, Inc. d/b/a Dan Deery Toyota, by and through their attorneys and hereby submit the following proposed jury instructions:

ICJI 100.1 (modified)
ICJI 100.2
ICJI 100.3
ICJI 100.4
ICJI 100.5
ICJI 100.6
ICJI 100.9
ICJI 100.11
ICJI 100.12
ICJI 100.15
ICJI 100.18
ICJI 100.20
ICJI 100.21
ICJI 200.38
ICJI 300.1
ICJI 300.4 - Verdict Form
ICJI 400.1
ICJI 700.1 (modified)
ICJI 700.3

Defendants reserve the right to submit additional jury instructions.

MCDONALD, WOODWARD & CARLSON, P.C.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon one of the attorneys of record for all parties to the above-entitled cause by serving the same on such attorney at his/her respective mailing/email address as disclosed by the pleadings of record herein, on the ____ day of August, 2019, by:

☐ US MAIL

☐ EMAIL

☐ EDMS

☐ CM/ECF

☐ SHAREFILE

☐ OTHER _____

/s/ _____

INSTRUCTION NO. _____

Members of the Jury:

This case arises out of an automobile accident that occurred on December 21, 2015 on the southbound off-ramp to Interstate 380 at the Penn Street Exit in North Liberty, Iowa. The plaintiff claims and the defendants do not dispute that Jill Bonsall's foot slipped off the brake pedal on the car she was driving which resulting in it hitting a vehicle owned and occupied by the plaintiff, Alan Steil. The plaintiff, Alan Steil claims that he sustained damages as a result of this accident.

Defendants, Jill Bonsall and Dan Deery Motor Co. of Waterloo, Inc. do not dispute that Jill Bonsall was negligent and that the accident came about because of that negligence. However, the defendants deny and dispute the claim by the Alan Steil that his claimed physical problems were caused by the accident, and they otherwise dispute the nature and extent of the injuries claimed by Alan Steil in this case.

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.

Authority

ICJI 100.1 (modified)

INSTRUCTION NO. _____

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.

Do not be influenced by any personal likes or dislikes, sympathy, bias, prejudices or emotions.

Authority

ICJI 100.2

INSTRUCTION NO. _____

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 or on the greater variety and number of facts presented by one side or the other.

Authority

ICJI 100.3

INSTRUCTION NO. _____

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 into evidence (such as answers to interrogatories, matters of which judicial notice was taken, and 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 pretrial statements and reports, depositions of witnesses, 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. Testimony I told you to disregard.
4. Anything you saw or heard about this case outside this courtroom.

Authority

ICJI 100.4

INSTRUCTION NO. _____

Certain testimony has been received into evidence from a deposition. A deposition is testimony taken under oath before the trial and preserved in writing or by videotape. Consider that testimony as if it had been given in court.

Authority

ICJI 100.5

INSTRUCTION NO. _____

During this trial, you have heard the word “interrogatory.” An interrogatory is a written question asked by one party or 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.

Authority

ICJI 100.6

INSTRUCTION NO. _____

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's 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 witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and,
3. The witness's interest in the trial, their motive, candor, bias and prejudice.

Authority

ICJI 100.9

INSTRUCTION NO. _____

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.

Authority

ICJI 100.11

INSTRUCTION NO. _____

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's education and experience, the reasons given for the opinion, and all the other evidence in the case.

Authority

ICJI 100.12

INSTRUCTION NO. _____

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

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

Authority

ICJI 100.15

INSTRUCTION NO. _____

The fact that a plaintiff or defendant is a corporation should not affect your decision. All person 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.

Authority

ICJI 100.20

INSTRUCTION NO. _____

In these instructions I will be using the term “fault.” Fault means one or more acts or omissions toward the person of the actor or of another which constitutes negligence.

Authority

ICJI 400.1

INSTRUCTION NO. _____

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

Authority

ICJI 700.3, *Thompson v. Kaczinski*, 774 N.W.2d 829, 836-39 (Iowa 2009)
Royal Indemnity Co. v. Factory Mut. Ins. Co., 786 N.W.2d 839 (Iowa 2010)

INSTRUCTION NO. _____

The plaintiff claims, and the defendants admit, that Jill Bonsall was at fault in allowing her vehicle to come in contact with plaintiff's vehicle.

The plaintiff must prove all of the following propositions:

1. That the fault of Jill Bonsall was a cause of damages to the plaintiff.
2. The amount of damage.

If the plaintiff has failed to prove any of these propositions, then they are not entitled to damages. If the plaintiff has proved all of these propositions, then the plaintiff is entitled to damages in some amount.

Authority

ICJI 700.1

INSTRUCTION NO. _____

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.

Authority

ICJI 200.38

INSTRUCTION NO. _____

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.

Authority

ICJI 100.21

INSTRUCTION NO. _____

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 judges—judges of the facts. Your sole interest is to find the truth and do justice.

Authority

ICJI 100.18

INSTRUCTION NO. _____

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 to the answers to the questions, the verdict will be signed by the person you selected to serve as foreman or forewoman.

After deliberating for six (6) 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 verdict. 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.

Authority

ICJI 300.1

IN THE IOWA DISTRICT COURT FOR JOHNSON COUNTY

ALAN R. STEIL,	)	No. LACV 079537
	)	
Plaintiff,	)	
	)	
vs.	)	VERDICT NO. _____
	)	
JILL BONSTALL, and DAN DEERY MOTOR CO.	)	
OF WATERLOO, INC. d/b/a DAN DEERY	)	
TOYOTA	)	
	)	
Defendants.	)	

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

Question No. 1: Was the fault of the defendants, Jill Bonsall and Dan Deery Motor Co. of Waterloo, Inc.*, a cause of any item of damage to plaintiff, Alan Steil?

Answer "yes" or "no."

ANSWER: _____

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

Question No. 2: State the amount of damages sustained by plaintiff, Alan Steil, caused by defendants' fault as to each of the following items of damage. If the plaintiff has failed to prove any item of damage, or have failed to prove that any item of damage was caused by defendants' fault enter 0 for that item.

1. Past medical expenses; \$ _____

2. Past pain and suffering: \$ _____

3. Additional damages indicated by the proof \$ _____

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

* The defendants, Jill Bonsall and Dan Deery Motor Company of Waterloo, Inc. are to be treated as a single party for purposes of answering the questions in this verdict form.

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 thereto after six hours or more of deliberation.

Authority

ICJI 300.4