

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

ALAN R. STEIL,  Plaintiff,  vs.  JILL BONSTALL and DAN DEERY MOTOR COMPANY OF WATERLOO, INC. d/b/a DAN DEERY TOYOTA,  Defendants.	NO. LACV079537  <b>PLAINTIFF'S FIRST PROPOSED JURY INSTRUCTIONS</b>
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PLAINTIFF, Alan Steil, by and through undersigned counsel, submits the attached jury instructions.

Respectfully Submitted,

/s/ Benjamin P. Long

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ATTORNEYS FOR THE PLAINTIFF

**PROOF OF SERVICE**

The undersigned certifies that the foregoing instrument was served upon the parties to this action by serving a copy upon each of the attorneys listed below on July 30, 2019, by Iowa EDMS.

**Elliot McDonald**

**Jason Madden**

By: /s/ Benjamin P. Long (AT0010155)

**REQUESTED UNIFORM CIVIL JURY INSTRUCTIONS:**

**General Instructions**

- 100.2 Duties of Judge and Jury, Instructions as Whole
- 100.3 Burden of Proof, Preponderance of Evidence
- 100.4 Evidence
- 100.5 Deposition Testimony
- 100.6 Interrogatories
- 100.9 Credibility of Witnesses
- 100.11 Hypothetical Question, Expert Testimony
- 100.12 Opinions Evidence, Expert Witness
- 100.15 Statements By A Party Opponent
- 100.18 General Instruction to Jury
- 100.21 Cautionary Instruction-Juror's Notes

**Damage Instructions**

- 200.1 Elements - Personal Injury and Vehicle Damage
- 200.6 Past Medical Expenses
- 200.7 Future Medical Expenses
- 200.8 Loss of Time - Earnings
- 200.9 Loss of Future Earning Capacity
- 200.10 Loss Of Full Mind And Body - Past
- 200.11B Loss Of Full Mind And Body - Future - Actions Filed On Or After July 1, 1997
- 200.12 Physical And Mental Pain And Suffering - Past
- 200.13B Physical And Mental Pain And Suffering - Future - Actions Filed On Or After July 1, 1997
- 200.35B Present Value
- 200.38 Quotient Verdict

**Verdict Instructions**

- 300.1 Return of Verdict – Forms of Verdict

**Comparative Fault**

- 400.1 Fault – Defined

**Rules of the Road**

- 600.1 Reasonable and Proper
- 600.3 Assured Clear Distance Ahead
- 600.7 Control – Common Law
- 600.72 Proper Lookout

**Negligence Instructions**

- 700.2 Ordinary Care – Common Law Negligence – Defined
- 700.3 Cause – Defined

**MODIFIED INSTRUCTIONS SET FORTH BELOW:**

**REQUESTED INSTRUCTION NO. \_\_\_\_ (Preliminary)**

**STATEMENT OF THE CASE**

Members of the Jury: In this case, Plaintiff Alan Steil, claims he was injured due to the negligence of Defendant Jill Bonsall in her operation of a vehicle owned by Dan Deery Toyota. As a result, he claims he suffered damages.

Defendants admit Jill Bonsall was negligent in the operation of Dan Deery Toyota's vehicle, but deny the nature and extent of Alan Steil's injuries and 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.

**AUTHORITY**

Iowa Civil Jury Instruction No. 100.1 (modified)

**REQUESTED INSTRUCTION NO. \_\_\_\_ (Preliminary)**

You, as jurors, must decide this case based solely on the evidence presented here within the four walls of this courtroom. This means that during the trial you must not conduct any independent research about this case, the matters in the case, and the individuals involved in the case. In other words, you should not consult dictionaries or reference materials, search the internet, websites, blogs, or use any other electronic tools to obtain information about this case or to help you decide the case. Please do not try to find out information from any source outside the confines of this courtroom.

I know that many of you use cell phones or smart phones like Blackberries, iPhones, or Android phones, the internet, and other tools of technology. You must not talk to anyone about this case or use these tools to communicate electronically with anyone about the case. This includes your family and friends. You may not communicate with anyone about the case on your cell phone or smart phone, through e-mail, text messaging, or on Twitter, through any blog or website, through any internet chat room, or by way of any other social networking websites, including Facebook, MySpace, LinkedIn, and YouTube.

Now, ladies and gentlemen, I want you to understand why these rules are so important:

Our law does not permit jurors to converse with anyone else about the case, or to permit anyone to talk to them about the case, because only jurors are authorized to render a verdict. Only you have been found to be fair and only you have promised to be fair - no one else has been so qualified.

Our law also does not permit jurors to converse among themselves about the case until the Court tells them to begin deliberations because premature discussions can lead to a premature final decision.

Our law also does not permit you to visit a place discussed in the testimony. First, you cannot always be sure that the place is in the same condition as it was on the day in question. Second, even if it were in the same condition, once you go to a place discussed in the testimony to evaluate the evidence in light of what you see, you become a witness, not a juror.

As a witness, you may now have an erroneous view of the scene that may not be subject to correction by either party. That is not fair.

Finally, our law requires that you not read or listen to any news accounts of the case, and that you not attempt to research any fact, issue, or law related to the case. Your decision must be based solely on the testimony and other evidence presented in this courtroom. It would not be fair to the parties for you to base your decision on some reporter's view or opinion, or upon information you acquire outside the courtroom.

These rules are designed to help guarantee a fair trial, and, our law accordingly sets forth serious consequences if the rules are not followed.

I trust you understand and appreciate the importance of following these rules and, in accord with your oath and promise, I know you will do so.

**AUTHORITY**

Iowa Civil Jury Instruction No. 100.23 (modified)

The Judicial Conference of the United States, January, 2010 (modified)

New York State Unified Court System, Crim. Jury Instructions 2d, General Charges, Jury

Admonitions in Preliminary Instructions (rev. May 5, 2009).

**REQUESTED INSTRUCTION NO. \_\_\_\_ (Preliminary)**

If you find Alan Steil suffered damages as result of the December 21, 2015, automobile collision, it is your duty to determine the amount. In doing so, you shall consider the following items in determining an amount that will fully compensate Alan Steil for the damages he suffered:

1. The reasonable value of necessary hospital and doctor charges, prescriptions, and other medical services from the date of the injury to the present time.
2. The present value of reasonable and necessary hospital and doctor charges, prescriptions, and other medical services which will be incurred in the future.
3. The reasonable value of [lost wages] [time from business] from the date of injury to the present time.
4. The present value of loss of future earning capacity. Loss of future earning capacity is the reduction in the ability to work and earn money generally, rather than in a particular job.
5. Loss of function of the body and mind from the date of injury to the present time. Loss of body and mind is the inability of a particular part of the body or mind to function in a normal manner.
6. The present value of future loss of function of the body and mind.
7. Physical and mental pain and suffering from the date of the 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.
8. The present value of future physical and mental pain and suffering.

The amount you assess for loss of function of body and mind, physical and mental pain and suffering and future earning capacity 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 December 21, 2015, automobile collision 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.

#### **AUTHORITY**

Iowa Civil Jury Instruction 200.1 (modified)  
Iowa Civil Jury Instruction 200.6 (modified)  
Iowa Civil Jury Instruction 200.7 (modified)  
Iowa Civil Jury Instruction 200.8 (modified)  
Iowa Civil Jury Instruction 200.9 (modified)  
Iowa Civil Jury Instruction 200.10 (modified)  
Iowa Civil Jury Instruction 200.11B (modified)  
Iowa Civil Jury Instruction 200.12 (modified)  
Iowa Civil Jury Instruction 200.13B (modified)



**REQUESTED INSTRUCTION NO. \_\_\_\_ (Preliminary)**

A Standard Mortality Table indicates the normal life expectancy of men who are the same age as Alan Steil is 26.1 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence about the person's prior health, habits, occupation, and lifestyle, when deciding issues of future damages.

**AUTHORITY**

Iowa Civil Jury Instruction No. 200.37 (modified)

IRS Publication 590B (2016)

**REQUESTED INSTRUCTION NO. \_\_\_\_ (Preliminary)**

In order to recover damages, Alan Steil must prove each of the following three propositions:

1. First, the defendant was negligent in one or more of the following ways:
  - a. In to operate at a reasonable and proper speed; or
  - b. In failing to stop in the assured clear distance ahead; or
  - c. In failing to maintain control of a vehicle; or
  - d. In failing to maintain a proper lookout;
2. Second, the negligence was a cause of damage to the plaintiff.

And,

3. Third, the amount of damage.

If Alan Steil has failed to prove each of the three propositions listed above, Alan Steil is not entitled to damages. If Alan Steil has proved each of the propositions listed above, he is entitled to compensation in some amount.

**AUTHORITY**

Iowa Civil Jury Instruction 700.1 (modified)

**REQUESTED INSTRUCTION NO. \_\_\_\_ (Preliminary)**

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, MySpace, LinkedIn, YouTube or Twitter, to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict.

**AUTHORITY**

Iowa Civil Jury Instruction No. 100.23 (modified)

The Judicial Conference of the United States, Proposed Model Jury Instructions, January, 2010

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<p>ALAN R. STEIL,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>JILL BONSTALL and DAN DEERY MOTOR COMPANY OF WATERLOO, INC. d/b/a DAN DEERY TOYOTA,</p> <p style="text-align: center;">Defendants.</p>	<p>NO. LACV079537</p> <p><b>PLAINTIFF'S PROPOSED VERDICT FORM</b></p>
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We find the following verdict on the questions submitted to us:

**Question No. 1:** Was the Defendant Jill Bonsall negligent? Answer "yes" or "no."

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

*[If your answer is "no," do not answer any further questions. If your answer is "yes" go on to question no. 2.]*

**Question No. 2:** Was the negligence of Defendant Jill Bonsall a cause of any damage to Plaintiff? Answer "yes" or "no."

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

*[If your answer is "no," do not answer any further questions. If your answer is "yes" go on to question no. 3.]*

**Question No. 3:** State the amount of damages sustained by Alan Steil for each of the following items of damage. If Alan Steil has failed to prove any item of damage, enter 0 for that item.

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

- |    |                                 |          |
|----|---------------------------------|----------|
| 1. | Past medical expenses           | \$ _____ |
| 2. | Future medical expenses         | \$ _____ |
| 3. | Past loss of wages              | \$ _____ |
| 4. | Future loss of earning capacity | \$ _____ |
| 5. | Past pain and suffering         | \$ _____ |
| 6. | Future pain and suffering       | \$ _____ |
| 7. | Past loss of function           | \$ _____ |
| 8. | Future loss of function         | \$ _____ |

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

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

*\* To be signed only if verdict is unanimous.*

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

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Juror \*\*

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Juror \*\*

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Juror \*\*

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