

MAR 29 2024

CLERK DISTRICT COURT  
BOONE COUNTY, IOWA

## IN THE IOWA DISTRICT COURT FOR BOONE COUNTY

CHARISE BAILEY and GARY D. LASS,  Plaintiffs,  vs.  JAMIE REBECCA GRIMES,  Defendant.	NO. LACV042199      <b>JURY INSTRUCTIONS</b>
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**INSTRUCTION NO. 1**

On March 23, 2020, a motor vehicle accident occurred in Story County, Iowa. The accident involved a motor vehicle driven by Plaintiff Charise Bailey and a vehicle driven by Defendant Jamie Grimes. Plaintiff Gary Lass was a passenger in the Bailey vehicle. The vehicle driven by Plaintiff Charise Bailey was a “loaner” vehicle owned by Moffitt’s Inc. as her car was being repaired. The accident occurred in the median entryway onto Highway 69.

Plaintiff Charise Bailey exited Highway 30 eastbound to proceed North on Duff Avenue or Highway 69. Plaintiff Bailey had crossed the median to the edge of the Northbound lanes of Highway 69 to turn left and proceed north and was waiting for traffic to clear in the designated median area at the yield sign. Traffic was heavy and she waited for a period of time for a gap in traffic to proceed. Defendant Grimes had stopped behind Plaintiff Bailey at the stop sign from the exit ramp at Highway 30, also waiting to turn left. Defendant Grimes observed a break in traffic and assumed Plaintiff Bailey would proceed. Defendant Grimes then rechecked her cross traffic and proceeded into the median area of the intersection and rear-ended the Plaintiffs’ vehicle.

Subsequently, the Plaintiffs filed suit and alleged that Jamie Grimes was negligent in the operation of her vehicle, resulting in personal injuries and damages to the Plaintiffs.

The Defendant has admitted liability for the accident but has disputed the nature and extent of both Plaintiffs' claimed 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.

### **INSTRUCTION NO. 2**

During the trial, the Court has ruled upon objections to evidence which have, from time to time, been made by counsel, and this Court has done so according to the rules of evidence. Such rulings made by the Court are the responsibility of the Court solely, and in your consideration of the case you will give no significance or weight whatever to such rulings, and you will consider only such evidence as has been received before you, and which has not been stricken by the Court.

### **INSTRUCTION NO. 3**

Whenever a party must prove something, they must do so by a preponderance of the evidence.

To prove something by a preponderance of the evidence means to prove that something is more likely true than not. In other words, a preponderance of the evidence in this case means such evidence, as when considered and compared with that opposed to it, has more convincing force and produces in your minds a belief that what is sought to be proven is more likely true than not true.

The preponderance of the evidence does not depend upon the number of witnesses testifying on one side or the other.

In determining whether any fact in issue has been proved by a preponderance of the evidence, you may, unless otherwise instructed, consider the testimony of all witnesses, regardless of who may have called them, and all exhibits received into evidence, regardless of who may have produced them.

#### **INSTRUCTION NO. 4**

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 acts; and,
3. The witnesses' interest in the trial, their motive, candor, bias and prejudice.

**INSTRUCTION NO. 5**

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 the courtroom.

**INSTRUCTION NO. 6**

There are two types of evidence, direct evidence and circumstantial evidence. Direct evidence is the evidence of the witness to a fact or facts of which they have knowledge by means



of their senses. Circumstantial evidence is the proof of a chain of circumstances pointing to the existence or nonexistence of certain facts.

The law makes no distinction between direct and circumstantial evidence but simply requires that the jury find the facts in accordance with the preponderance of all the evidence in this case, both direct and circumstantial.

#### **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**

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. 9**

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. 10**

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. 11**

You have heard evidence claiming Gary Lass made statements before this trial while under oath which were inconsistent with what Gary Lass 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 Gary Lass. 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.

**INSTRUCTION NO. 12**

The conduct of a party is a legal cause of damage when it is a substantial factor in producing damage and when the damage would not have happened except for the conduct.

"Substantial" means the party's conduct has such an effect in producing damage as to lead a reasonable person to regard it as a cause.

**INSTRUCTION NO. 13**

In this case, Defendant has admitted negligence and fault. The law does not impose liability for negligence unless the breach of a duty of care is also the cause in fact of the Plaintiffs Gary Lass and Charise Bailey's claimed damages. The Defendant's conduct must have in fact caused the Plaintiffs' claimed damages. To recover damages, the Plaintiffs must prove that the damages would not have occurred but for the Defendant's negligence.

**INSTRUCTION NO. 14**

If you find Plaintiffs Gary Lass and Charise Bailey are entitled to recover damages, you shall consider the following items of damage:

- a) Past mental and physical pain and suffering.
- b) Future mental and physical pain and suffering.
- c) Past loss of full mind and body.
- d) Future loss of full mind and body.

If you find Plaintiffs Gary Lass and Charise Bailey are entitled to recover damages, you should consider the following items:

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 pain and suffering in the past and/or 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 damages. Add together the amounts, if any, you find for each of the above items and the total will be used to answer the special verdicts.

#### **INSTRUCTION NO. 15**

If you find Plaintiff Gary Lass had a medical condition before this accident and this condition was aggravated by this incident causing further suffering or disability, then he is entitled to recover damages caused by the aggravation. Plaintiff Gary Lass is not entitled to recover for any physical ailment or disability which existed before this incident or for any injuries or damages which he now has which were not caused by the Defendant's actions.

#### **INSTRUCTION NO. 16**

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

#### **INSTRUCTION NO. 17**

If you find Plaintiff Charise Bailey had a medical condition before this accident and this condition was aggravated by this incident causing further suffering or disability, then she is entitled to recover damages caused by the aggravation. Plaintiff Charise Bailey 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.

#### **INSTRUCTION NO. 18**

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 Plaintiffs for future losses.

#### **INSTRUCTION NO. 19**

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Plaintiff Gary Lass is 13.2 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Plaintiff Gary Lass's health, habits, occupation, and lifestyle, when deciding issues of future damages.

#### **INSTRUCTION NO. 20**

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Plaintiff Charise Bailey is 46.2 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Plaintiff Charise Bailey's health, habits, occupation, and lifestyle, when deciding issues of future damages.

**INSTRUCTION NO. 21**

The fact that I have instructed you on the proper measure of damages should not be considered as an indication of any view of mine as to which party is entitled to your verdict in this case. Instructions as to measure of damages are given only for your guidance.

**INSTRUCTION NO. 22**

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. 23**

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.

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

#### **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 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. 26

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 and answers to questions must be signed by your foreman or forewoman.


After deliberating for six hours from ~~11:00~~<sup>11:20</sup> to ~~1:00~~<sup>1:30</sup> clock ~~1:00~~<sup>1:30</sup> 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 must be signed by all seven jurors who agree. When you have agreed upon the verdict and appropriately signed it, tell the court attendant.

#### INSTRUCTION NO. 27

Occasionally, after a jury retires to the jury room, the members have questions. I have prepared the instructions after carefully considering this case with the parties and lawyers. I have tried to use language which is generally understandable. Usually, questions about instructions can be answered by carefully re-reading them. If, however, any of you feel it necessary to ask a question, you must do so in writing and deliver the question to the court attendant. I cannot communicate with you without first discussing your question and potential answer with the parties and lawyers. This process naturally takes time and deliberation before I can reply. The foreperson shall read my response to the jury. Keep the written question and response and return it to the Court with the verdict.



Dated this 29<sup>th</sup> day of March, 2024.

  
Angela L. Doyle  
District Court Judge  
Second Judicial District