

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<hr/> ZAW ZAW and ZIN LANG AUNG, Plaintiffs, v. KEVIN BIRUSINGH, M.D., and THE IOWA CLINIC, Defendants. <hr/> KEVIN BIRUSINGH, M.D., and THE IOWA CLINIC, Third-Party Plaintiffs, vs. LANGUAGEtech, INC., Third-Party Defendant. <hr/>	 CASE NO. LACL139628 DEFENDANTS'/THIRD-PARTY PLAINTIFFS' PROPOSED JURY INSTRUCTIONS
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COME NOW the Defendants, Kevin Birusingh, M.D. and The Iowa Clinic, and for their Proposed Jury Instructions, state as follows:

/s/ Kellen Bubach

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on this pleading on October 28, 2019 by:

<input type="checkbox"/> U.S. Mail.	<input type="checkbox"/> Email
<input type="checkbox"/> Hand-Delivered	<input type="checkbox"/> Overnight Courier
<input type="checkbox"/> Certified Mail	<input checked="" type="checkbox"/> E-File

/s/Kellen Bubach

STATEMENT OF THE CASE

This is an alleged medical negligence case for damages. Plaintiffs Zaw Zaw and Zin Lang Aung allege that Defendant Kevin Birusingh, M.D. was negligent in his care and treatment of Plaintiff Zaw Zaw and that this alleged negligence caused injuries to Plaintiffs.

Defendants deny that Dr. Birusingh was negligent in any respect and deny that Dr. Birusingh's alleged negligence caused any injuries to the Plaintiffs. Defendants assert that if Plaintiffs were injured, any injuries were caused by the fault of other parties.

This brief statement of the case is not evidence and is only a general outline of the case, which is not intended to influence you either way.

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

Iowa Civ. Jury Instructions 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.

Authority

Iowa Civ. Jury Instructions 100.3

INSTRUCTION NO. _____

You shall base your verdict only upon the evidence in 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.

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 the courtroom.

Authority

Iowa Civ. Jury Instructions 100.4

INSTRUCTION NO. _____

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

Authority

Iowa Civ. Jury Instructions 100.5

INSTRUCTION NO. _____

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 question had been asked and answered here in court.

Authority

Iowa Civ. Jury Instructions 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 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.

Authority

Iowa Civ. Jury Instructions 100.9

INSTRUCTION NO. ____

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.

Iowa Civ. Jury Instructions 100.23

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

Iowa Civ. Jury Instructions 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

Iowa Civ. Jury Instructions 100.12

INSTRUCTION NO. _____

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

Authority

Iowa Civil Jury Instruction 400.1
Iowa Code § 668.1

INSTRUCTION NO. _____

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 all parties and the extent of the causal relation between their conduct and the damages claimed. You should then determine what percentage, if any, each parties' fault contributed to the damages.

Authority

Iowa Civil Jury Instruction 400.2
Iowa Code §668.3(3)

INSTRUCTION NO. _____

After you have compared the conduct of all parties, if you find Plaintiff Zaw Zaw, was at fault and his fault was more than 50% of the total fault, Plaintiffs cannot recover damages. However, if you find Plaintiff Zaw Zaw's fault was 50% or less of the total fault, then I will reduce the total damages by the percentage of Plaintiff Zaw Zaw's fault.

Authority

Iowa Civil Jury Instruction 400.3
Iowa Code §§ 668.1, 668.3(5), 668.5(1)
McIntosh v. Barr, 397 N.W.2d 516 (Iowa 1986)
Reese v. Werts, 379 N.W.2d 1 (Iowa 1985)
Polyzer v. McGraw, 360 N.W.2d 748, 753 (Iowa 1985)
Madison v. Colby, 348 N.W.2d 202 (Iowa 1984)
Fuller v. Bubrow, 292 N.W.2d 672 (Iowa 1980)

INSTRUCTION NO. _____

Plaintiffs claim that Kevin Birusingh, M.D. is liable for alleged medical negligence. Medical negligence is explained to you in Instruction No. ____.

As to Defendant Kevin Birusingh, M.D., the Plaintiffs must prove all of the following propositions:

1. Defendant Kevin Birusingh, M.D. was negligent in providing medical care to Plaintiff Zaw Zaw in the following manner:
 - a. . . . [as supported by the evidence]
2. The alleged negligence was a cause of damage to Plaintiffs.
3. The alleged negligence was within the scope of Defendant's liability.
4. The nature and extent of damages.

If Plaintiffs have failed to prove all of these propositions, Plaintiffs are not entitled to damages and your verdict will be in favor of the Defendants. If the Plaintiffs have proved all of these propositions, you will consider the defense of comparative fault as explained in Instruction Nos. ____.

Authority

Iowa Civ. Jury Instructions 700.1

INSTRUCTION NO. _____

Defendant Kevin Birusingh, M.D. and Third-Party Defendant LANGUAGEtech, Inc. claim that Plaintiff Zaw Zaw was at fault in one or more of the following particulars:

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

Defendant and Third-Party Defendant must prove all of the following propositions:

1. Plaintiff Zaw Zaw was at fault. In order to prove fault, the Defendant and Third-Party Defendant must prove Plaintiff Zaw Zaw was negligent. Negligence is explained to you in Instruction No. ____.

2. Plaintiff Zaw Zaw's fault was a cause of Plaintiffs' damage.

If the Defendant and Third-Party Defendant have failed to prove these propositions, they have not proved their defense. If Defendant and Third-Party Defendant have proved these propositions, then you will assign a percentage of fault against Plaintiff Zaw Zaw and include Plaintiff Zaw Zaw fault in the total percentage of fault found by you answering the special verdicts.

Authority

Iowa Civ. Jury Instructions 400.6 (modified)

INSTRUCTION NO. _____

Defendant Kevin Birusingh, M.D. claims that, Third-Party Defendant LANGUAGEtech, Inc. may have been at fault in one or more of the following particulars:

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

Defendant must prove all of the following propositions:

1. LANGUAGEtech, Inc. was at fault. In order to prove fault, the Defendants must prove LANGUAGEtech, Inc. was negligent. Negligence is explained to you in Instruction No. ____.

2. LANGUAGEtech, Inc.'s fault was a cause of Plaintiffs' damage.

If the Defendant has failed to prove these propositions, Defendant has not proved their defense. If Defendant has proved these propositions, then you will assign a percentage of fault against the Third-Party Defendant LANGUAGEtech, Inc. and include Third-Party Defendant LANGUAGEtech, Inc.'s fault in the total percentage of fault found by you answering the special verdicts.

Authority

Iowa Civ. Jury Instructions 400.6 (modified)

INSTRUCTION NO. _____

Defendant Kevin Birusingh, M.D. and Third-Party Defendant LANGUAGEtech, Inc. claim Plaintiff Zaw Zaw was at fault for failing to mitigate his damages by not exercising ordinary care to obtain reasonable medical treatment, specifically failing to have his vasectomy reversed if he in fact did not want a vasectomy.

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 undergo serious or speculative medical treatment, undertake action which is unreasonably expensive or intrusive, undertake action which imposes unreasonable inconvenience.

To prove Defendant Kevin Birusingh, M.D.'s and Third-Party Defendant LANGUAGEtech, Inc.'s claim of failure to mitigate, they must prove all of the following:

1. There was something Plaintiff Zaw Zaw could do to mitigate his damages;
 2. Requiring Plaintiff Zaw Zaw to do so was reasonable under the circumstances;
 3. Plaintiff Zaw Zaw acted unreasonable in failing to undertake the mitigating activity;
- and
4. Plaintiff Zaw Zaw's failure to undertake the mitigating activity caused an identifiable portion of his damages.

If Defendant Kevin Birusingh, M.D. and Third-Party Defendant LANGUAGEtech, Inc. have proved all of these numbered propositions, then Defendant Kevin Birusingh, M.D. and Third-Party Defendant LANGUAGEtech, Inc. have proved this defense, and you shall assign a percentage of fault to Plaintiff Zaw Zaw for the time period after the failure to

mitigate. This amount will be used in answering the special interrogatory in the verdict. If Defendant Kevin Birusingh, M.D. and Third-Party Defendant LANGUAGEtech, Inc. have failed to prove one or more of these numbered propositions, then they have not proved Plaintiff Zaw Zaw failed to mitigate his damages.

Authority

Iowa Civ. Jury Instructions 400.7

Iowa Code section 668.1

Greenwood v. Mitchell, 621 N.W.2d 200 (Iowa 2001)

Thompson v. Kaczinski, 774 N.W. 2d 829, 836-39 (Iowa 2009) (causation)

Shenry v. Heuer, 255 Iowa 147, 121 N.W.2d 529 (1963)

Updegraff v. City of Ottumwa, 210 Iowa 382, 226 N.W.2d 928 (1929)

White v. Chicago & N.W. Ry. Co., 145 Iowa 408, 124 N.W. 309 (1910)

Bailey v. City of Centerville, 108 Iowa 20, 78 N.W. 831 (1899)

INSTRUCTION NO. _____

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

Authority

Iowa Civ. Jury Instructions 700.8

Novak Heating & Air Conditioning v. Carrier Corp., 622 N.W.2d 495, 497 (Iowa 2001)

Armbruster v. Gray, 282 N.W. 342, 344 (Iowa 1938)

Smith v. Koslow, 757 N.W.2d 677, 681 (Iowa 2008)

INSTRUCTION NO. _____

A physician's conduct must be viewed in light of the circumstances existing at the time of diagnosis and treatment and not retrospectively. If a physician exercised a reasonable degree of care and skill under the circumstances as they existed, though not as seen in perfect hindsight, then the physician is not liable for medical negligence.

Authority

Estate of Hagedorn ex rel Hagedorn v. Peterson, 690 N.W.2d 84 (Iowa 2004)

East v. United States, 745 F. Supp. 1142, 1149 (D. Md. 1990)

Boyce v. United States, 942 F. Supp. 1220, 1225–26 (E.D. Mo. 1996)

INSTRUCTION NO. _____

A physician must use the degree of skill, care and learning ordinarily possessed and exercised by other physicians in similar circumstances.

A violation of this duty is negligence.

Authority

Iowa Civ. Jury Instructions 1600.2

INSTRUCTION NO. _____

You must determine the standard of professional learning, skill and care required by Dr. Birusingh only from the opinions of the physicians who have testified as expert witnesses as to such standard.

Authority

Wilson v. Corbin, 41 N.W.2d 702, 705 (Iowa 1950)

Bryant v. Rankin, 332 F. Supp 319, 322 (S.D. Iowa 1971)

Perin v. Hayne, 210 N.W. 2d 609, 613 (Iowa 1973)

Buckroyd v. Buntten, 237 N.W.2d 808, 811 (Iowa 1976)

Meirick by Meirick v. Weinmeister, 461 N.W.2d 348, 350 (Iowa Ct. App. 1990)

Kennis v. Mercy Hosp. Med. Ctr., 491 N.W.2d 161, 165 (Iowa 1992)

INSTRUCTION NO. _____

A physician is required to obtain an informed consent from a patient prior to performing any procedure upon the patient. To obtain an informed consent, a physician must disclose to the patient all known material information concerning the vasectomy that would be significant to a reasonable patient's decision to consent to the procedure. Material information includes the [risks of] [alternatives to] [consequences of failing to have] the procedure or treatment.

Authority

Iowa Civil Jury Instruction 1600.12

Pauscher v. Iowa Methodist Med. Ctr., 408 N.W.2d 355 (Iowa 1987)

INSTRUCTION NO. _____

A consent in writing to any medical or surgical procedure or course of procedures in patient care which meets the requirements of this section shall create a presumption that informed consent was given. A consent in writing meets the requirements of this section if it:

1. Sets forth in general terms the nature and purpose of the procedure or procedures, together with the known risks, if any, of death, brain damage, quadriplegia, paraplegia, the loss or loss of function of any organ or limb, or disfiguring scars associated with such procedure or procedures, with the probability of each such risk if reasonably determinable.
2. Acknowledges that the disclosure of that information has been made and that all questions asked about the procedure or procedures have been answered in a satisfactory manner.
3. Is signed by the patient for whom the procedure is to be performed.

Authority

Iowa Code § 147.137 (modified)

INSTRUCTION NO. _____

The duty to obtain informed consent imposes upon a physician a duty to reasonably disclose information material to the patient's decision. The physician discharges the duty when he takes reasonable steps to convey material information although the patient, without negligence of the physician, may not fully grasp it.

Authority

Pauscher v. Iowa Methodist Med. Ctr., 408 N.W.2d 355, 361 (Iowa 1987)

Canterbury v. Spence, 464 F.2d 772, n. 15 (D.C. Cir. 1972)

INSTRUCTION NO. _____

Plaintiff Zaw Zaw claims the Defendant Kevin Birusingh, M.D. was negligent in failing to obtain an informed consent from Zaw Zaw before performing the vasectomy.

Zaw Zaw must prove all of the following propositions:

1. The existence of material information concerning the vasectomy.
2. Material information concerning the vasectomy was unknown to Zaw Zaw.
3. Dr. Birusingh failed to disclose material information concerning the vasectomy to Zaw Zaw
4. Disclosure of material information concerning the vasectomy would have led a reasonable patient in Zaw Zaw's position to reject the treatment.
5. The failure to obtain an informed consent was a cause of the plaintiffs' damage.
6. The nature and amount of damage.

Authority

Iowa Civil Jury Instruction 1600.10 (modified)

Pauscher v. Iowa Methodist Medical Center, 408 N.W.2d 355 (Iowa 1987)

Thompson v. Kaczinski, 774 N.W. 2d 829, 836-39 (Iowa 2009) (causation)

INSTRUCTION NO. _____

As to Plaintiffs and LANGUAGEtech, Inc., “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.

Authority

Iowa Civil Jury Instruction 700.2
Bartlett v. Chebuhar, 479 N.W.2d 321 (Iowa 1992)
Schalk v. Smith, 277 N.W. 303 (Iowa 1938)

INSTRUCTION NO. _____

Physicians may disagree in good faith upon what would be the proper treatment or diagnosis of a medical condition in a given situation. It is for the physician to use his or her professional judgment to select which recognized method of treatment to use in a given situation. If you determine that there were two or more recognized alternative courses of action which have been recognized by the medical professional as proper methods of treatment, and the Defendant Dr. Birusingh, in the exercise of his best judgment, elected one of those proper alternatives, then Defendant was not negligent.

Authority

Estate of Smith by Smith v. Lerner, 387 N.W.2d 576, 580–82 (Iowa 1986)
Sinke v. Surgical Assocs., 186 N.W.2d 658 (Iowa 1971),
Vachon v. Broadlawns Med. Found., 490 N.W.2d 820 (Iowa 1992)

INSTRUCTION NO. _____

The fact that Third-Party Defendant LANGUAGEtech, Inc. 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.

INSTRUCTION NO. _____

A corporation is liable for the negligent acts of an employee if the acts are done in the scope of the employment. At all times relevant to this case, Noel Lalthangliana and Jeremia Sui were employees or agents of LANGUAGEtech, Inc. Therefore, the fault of Noel Lalthangliana or Jeremia Sui, if any, is assigned to LANGUAGEtech, Inc. for purposes of assigning fault on the verdict form.

INSTRUCTION NO. _____

Defendant Kevin Birusingh, M.D. is not legally responsible for the conduct of any other individual, entity, or party to this lawsuit. You are not to assign or impute the fault, if any, of LANGUAGE Tech Inc. or its agents or employees (including its interpreters), or any other individual, entity, or party to Defendant Kevin Birusingh, M.D. You may not hold Kevin Birusingh, M.D. responsible for the conduct of any other individual, entity or party.

INSTRUCTION NO. _____

The conduct of a party is a factual cause of harm when the harm would not have occurred absent the conduct.

If multiple acts occur, each of which alone would have been a factual cause of the physical harm at the same time in the absence of the other acts, each act is regarded as a factual cause of the harm.

Authority:

Iowa Civ. Jury Instruction 700.3

Royal Indemnity Co. v. Factory Mut. Ins. Co., 786 N.W.2d 839, 849–850 (Iowa 2010)

Thompson v. Kaczinski, 774 N.W.2d 829, 836-39 (Iowa 2009)

Restatement (Third) of Torts: Liability for Physical and Emotional Harm § 26, 27

INSTRUCTION NO. _____

If you determine any party was negligent, you must then decide whether the claimed harm to Plaintiffs is within the scope of that parties' liability. The claimed harm is within the scope of a parties' liability if that harm arises from the same general types of danger that the defendant should have taken reasonable steps to avoid.

Consider whether repetition of the negligent conduct makes it more likely harm of the type Plaintiffs claim to have suffered would happen to another. If not, the harm is not within the scope of liability.

If the parties' conduct constitutes only a trivial contribution to the Plaintiffs' claimed harms, then any injury caused by such conduct is outside the scope of the that parties' liability.

Authority:

Iowa Civ. Jury Instruction 700.3A (Modified)
Thompson v. Kaczinski, 774 N.W.2d 829, 839 (Iowa 2009)
Royal Indem. Co. v. Factory Mut. Ins. Co., 786 N.W.2d 839, 849–850 (Iowa 2010)
Restatement (Third) of Torts: Liability for Physical and Emotional Harm, §§ 29, 30, 36

INSTRUCTION NO. _____

If you find from the evidence that the condition of which Plaintiff Zaw Zaw complains was caused or occasioned by or from any cause or causes over which Dr. Birusingh had no control, or for which he is not responsible, your verdict must be in favor of the Defendants.

If you find that it cannot be determined by a preponderance of the evidence whether the condition of which Plaintiff Zaw Zaw complains was or was not caused by a negligent act alleged on the part of the Dr. Birusingh, or by anything over which he had no control, your verdict shall be in favor of the Defendants. You are not to indulge in conjecture or speculation as to the cause of Plaintiff Zaw Zaw's alleged injury in this case.

Authority

Bryant v. Rankin, 332 F. Supp. 319 (N.D. Iowa 1971)
Lagerpusch v. Lindley, 115 N.W.2d 207 (Iowa 1962)

INSTRUCTION NO. _____

If you have decided Plaintiffs are entitled to be compensated for injury and loss, you are instructed that a plaintiff may not recover for economic losses more than once.

For that reason, the actual economic losses that have been incurred or will be incurred in the future, including the cost of reasonable and necessary care, rehabilitative services and custodial care, and lost income, must not be included in your award to the extent that those economic losses were or will be replaced or paid for by health insurance, or by governmental, employment or service benefit programs including Social Security disability and workers' compensation benefits.

Authority

Iowa Code § 147.136

INSTRUCTION NO. _____

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 plaintiff for future loss.

Authority

Iowa Civ. Jury Instruction 200.35

INSTRUCTION NO. _____

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.

Authority

Iowa Civ. Jury Instruction 200.38

Damage Instructions

[As supported by the evidence, instructions consistent with Iowa Civ. Jury
Instructions 200.6–200.40]

INSTRUCTION NO. _____

I am giving you ____ verdict forms [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.

Authority

Iowa Civ. Jury Instruction 300.1

INSTRUCTION NO. _____

Upon retiring, you shall select a foreperson. 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

Iowa Civ. Jury Instruction 100.18