

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

DONALD DOWNEY,

Plaintiff,

v.

**JOLENE FRANCES INGERSOLL f/k/a
JOLENE MURRY,**

Defendant.

CASE NO. LACL139308

**DEFENDANT'S PROPOSED JURY
INSTRUCTIONS**

COMES NOW Defendant Jolene Ingersoll, f/k/a Jolene Murry, and in the event the Court determines that any claims are submissible, respectfully requests that the following instructions and verdict form be provided to the jury.

Respectfully submitted,

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STATEMENT OF THE CASE

Members of the jury: In this case, the plaintiff, Donald Downey, claims that the defendant, Jolene Ingersoll, caused a car accident on October 30, 2015. The plaintiff claims that his left shoulder was injured because of the accident. The defendant denies that the plaintiff's left shoulder sustained any injury because of the accident.

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 100.1

PROPOSED JURY INSTRUCTION NO. 1

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. Because you are making very important decisions in this case, you are to evaluate the evidence carefully and avoid decisions based on generalizations, gut feelings, prejudices, sympathies, stereotypes, or 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.

Authority

Iowa Civil Jury Instruction 100.2

PROPOSED JURY INSTRUCTION NO. 2

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 Civil Jury Instruction 100.3

PROPOSED JURY INSTRUCTION NO. 3

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, 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 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.

Authority

Iowa Civil Jury Instruction 100.4

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

Authority

Iowa Civil Jury Instruction 100.9

PROPOSED JURY INSTRUCTION NO. 5

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.

Authority

Iowa Civil Jury Instruction 100.5

PROPOSED JURY INSTRUCTION NO. 6

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.

Authority:

Iowa Jury Inst. 100.6

PROPOSED JURY INSTRUCTION NO. 7

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 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 Jury Inst. 100.9

PROPOSED JURY INSTRUCTION NO. 8

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.

Authority:

Iowa Jury Inst. 100.12

PROPOSED JURY INSTRUCTION NO. 9

You have heard evidence claiming Plaintiff Donald Downey 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 Plaintiff Donald Downey had made it under oath during the trial.

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

Authority:

Iowa Jury Inst. 100.15

PROPOSED JURY INSTRUCTION NO. 10

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.

Authority

Iowa Civil Jury Instruction 100.18

PROPOSED JURY INSTRUCTION NO. 11

To recover damages against the defendant, the plaintiff must prove all of the following propositions:

1. The defendant was negligent in operating her motor vehicle on October 30, 2015 and caused the accident between the plaintiff and the defendant.
2. The negligence was a cause of damage to the plaintiff.
3. The amount 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, the plaintiff is entitled to damages in some amount.

Authority

Iowa Civil Jury Instruction 700.1

PROPOSED JURY INSTRUCTION NO. 12

"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 Jury Inst. 700.2

PROPOSED JURY INSTRUCTION NO. 13

The conduct of a party is a cause of damage when the damage would not have happened except for the conduct. There can be more than one cause of an injury or damage.

Authority

Iowa Civil Jury Instruction 700.3

PROPOSED JURY INSTRUCTION NO. 14

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

Authority

Iowa Civil Jury Instruction 200.37

PROPOSED JURY INSTRUCTION NO. 15

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 Civil Jury Instruction 200.38

PROPOSED JURY INSTRUCTION NO. 16

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

Iowa Civil Jury Instruction 100.21

PROPOSED JURY INSTRUCTION NO. 17

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.

Authority:

Iowa Jury Inst. 100.23

PROPOSED JURY INSTRUCTION NO. 18

I am giving you _____ verdict forms [and questions]. 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 _____ 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 [and questions] must be signed by all (seven) (six)* jurors who agree.

When you have agreed upon the verdict [and answers to questions] and appropriately signed it, tell the Court Attendant.

Authority

Iowa Civil Jury Instruction 300.1

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

DONALD DOWNEY,

Plaintiff,

v.

**JOLENE FRANCES INGERSOLL f/k/a
JOLENE MURRY,**

Defendant.

CASE NO. LACL139308

VERDICT FORM

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: State the amount of damages sustained by the plaintiff by defendant's fault as to each of the following items of damage. If the plaintiff has failed to prove any item of damage, or has failed to prove that any item of damage was caused by the defendant's fault, enter 0 for that item.

Defendant contends that specific elements of damage are to be proven depending on trial evidence

Head Juror*

*To be signed only if verdict is unanimous.

Juror**

Juror**

Juror**

Juror**

Juror**

Juror**

Juror**

**To be signed by the jurors agreeing thereto after 6 hours or more of deliberating.