

Instruction No. _____

This instruction and other instructions which I will read to you near the end of the trial are in writing, and all of the written instructions will be handed to you for guidance in your deliberation when you retire to the jury room. They will direct you concerning the legal rights and duties of the parties and how the law applies to the facts which you will be called upon to decide.

The trial may begin with opening statements by the lawyers as to what they expect the evidence to be. At the close of the evidence, the lawyers may make arguments on behalf of their clients. Neither what is said in opening statements or in closing arguments is to be considered as proof of a fact. However, if a lawyer admits some fact on behalf of his client, the other party is relieved of the responsibility of proving that fact.

After the opening statements, the plaintiff will introduce evidence. After that, the defendant may introduce evidence and there may be rebuttal evidence after that. The evidence may include the testimony of witnesses who appear personally here in court, the testimony of witnesses who may not appear personally but whose testimony may be read or shown to you, and exhibits such as pictures, documents, and other objects.

While the trial is in progress, I may be called upon to determine questions of law and to decide whether these matters may be considered by you under the law. No ruling or remark which I may make at any time during the trial will be intended or should be considered by you to indicate my opinion as to the facts. There may be times when the lawyers come up to talk to me out of your hearing. This will be done in order to permit me to decide questions of law. These conversations will be out of your hearing to prevent issues of law, which I must decide, from becoming mixed with the issues of fact, which you must decide. We will not be trying to keep secrets from you.

After all of the evidence has been presented, and you have received my final instructions and heard the closing arguments of the lawyers, you will retire to the jury room for your deliberations. At that time it will be your duty to select a foreperson, to decide the facts, and to arrive at a verdict.

Justice requires that you not make up your mind about the case until all of the evidence has been seen and heard. You must not comment on or discuss what you may

hear or learn in the trial until the case is concluded and you retire to the jury room for your deliberations. During the trial, you should not remain in the presence of anyone who is discussing the case when the court is not in session. Otherwise, some outside influence or comment might influence a juror to make up his or her mind prematurely and be the cause of a possible injustice. For this reason, the lawyers and their clients are not permitted to talk with you until the trial is completed.

When you enter into your deliberations, you will be considering the testimony of witnesses as well as other evidence to which I have referred. In considering the weight and value of the testimony of any witness, you may take into consideration the appearance, attitude, and behavior of the witness, the interest of the witness in the outcome of the case, the relation of the witness to any of the parties, the inclination of the witness to speak truthfully or untruthfully, and the probability or improbability of the witness' statements. You may give the testimony of any witness such weight and value as you believe that testimony is entitled to receive.

There will be some matters which will be offered by the parties and to which objections will be made. If I overrule the objections, you may consider that matter when you deliberate on the case. If I sustain an objection, then that matter and any matter I order to be stricken is excluded and must not be considered by you in your deliberations.

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As you remember, the court gave you a general instruction before the presentation of any evidence in this case. The court will not repeat that instruction at this time. However, that instruction and the additional instructions, to be given to you now, constitute the law of this case and each such instruction is equally binding upon you. You should consider each instruction in light of and in harmony with the other instructions, and you should apply the instructions as a whole to the evidence. The order in which the instructions are given is no indication of their relative importance. All of the instructions are in writing and will be available to you in the jury room.

Instruction No. _____

In returning your verdict you will form beliefs as to the facts. The court does not mean to assume as true any fact referred to in these instructions but leaves it to you to determine what the facts are.

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In these instructions, you are told that your verdict depends on whether or not you believe certain propositions of fact submitted to you. The burden is upon the party who relies upon any such proposition to cause you to believe that such proposition is more likely to be true than not true.. In determining whether or not you believe any such proposition, you must consider only the evidence and the reasonable inferences derived from the evidence. If the evidence in the case does not cause you to believe a particular proposition submitted, then you cannot return a verdict requiring belief of that proposition.

Instruction No. _____

The term “negligent” or “negligence” as used in these instructions means the failure to use the highest degree of care. The phrase “highest degree of care” means that degree of care that a very careful person would use under the same or similar circumstances.

Instruction No. _____

The phrase "yield the right-of-way" as used in these instructions means a driver is required to yield at the stop sign if the other vehicle is within the intersection or is so close to the intersection that it is an immediate hazard.

Instruction No. _____

The verdict form included in these instructions contains directions for completion and will allow you to return the permissible verdict in this case. Nine or more of you must agree in order to return any verdict. A verdict must be signed by each juror who agrees to it.

Instruction No. _____

In your verdict you must assess a percentage of fault to defendant [whether or not plaintiff was partly at fault] if you believe:

First, either:

defendant failed to keep a careful lookout, or
defendant failed to yield the right-of-way, and

Second, defendant, in any one or more of the respects submitted in paragraph First, was thereby negligent, and

Third, as a direct result of such negligence, plaintiff sustained damage.

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If you assess a percentage of fault to defendant Neil Bates, then, disregarding any fault on the part of plaintiff, you must determine the total amount of plaintiff Dusti Cunningham's damages to be such sum as you believe will fairly and justly compensate plaintiff for any damages you believe he sustained and is reasonably certain to sustain in the future as a direct result of the automobile accident. You must state such total amount of plaintiff's damages in your verdict.

In determining the total amount of plaintiff's damages you must not reduce such damages by any percentage of fault you may assess to plaintiff. The judge will compute plaintiff's recovery by reducing the amount you find as plaintiff's total damages by any percentage of fault you assess to plaintiff.

