

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

MARK DEBOWER,

Plaintiff,

v.

WENDY DAWN SPENCER; WAGNER
TRUCKING, INC.; and SKEETER
EXPRESS SPECIALIZED, LLC;

Defendants.

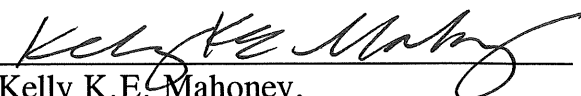
No. 21-CV-2010-KEM

JURY INSTRUCTIONS

TABLE OF CONTENTS

INSTRUCTION NO. 1 - INTRODUCTION3
INSTRUCTION NO. 2 - CORPORATE DEFENDANTS5
INSTRUCTION NO. 3 - BURDEN OF PROOF6
INSTRUCTION NO. 4 - EVIDENCE.....7
INSTRUCTION NO. 5 - TESTIMONY OF WITNESSES.....9
INSTRUCTION NO. 6 - EXPERT WITNESS TESTIMONY 10
**INSTRUCTION NO. 7 - DEMONSTRATIVE SUMMARIES NOT RECEIVED
AS EVIDENCE 11**
INSTRUCTION NO. 8 - STIPULATED FACTS 12
INSTRUCTION NO. 9 - NEGLIGENCE CLAIM..... 13
INSTRUCTION NO. 10 - COMPARATIVE FAULT DEFENSE 16
INSTRUCTION NO. 11 - LIABILITY OF EMPLOYER..... 19
INSTRUCTION NO. 12 - DAMAGES..... 20
INSTRUCTION NO. 12A - PREEXISTING CONDITION20A
INSTRUCTION NO. 13 - QUOTIENT VERDICT 22
INSTRUCTION NO. 14 - OUTLINE OF TRIAL..... 23
INSTRUCTION NO. 15 - QUESTIONS BY JURORS 24
INSTRUCTION NO. 16 - OBJECTIONS..... 25
INSTRUCTION NO. 17 - NOTE-TAKING 26
INSTRUCTION NO. 18 - BENCH CONFERENCES AND RECESSES 27
INSTRUCTION NO. 19 - CONDUCT OF THE JURY..... 28
INSTRUCTION NO. 20 - ADDITIONAL INSTRUCTIONS..... 31
INSTRUCTION NO. 21 - JUDGE’S OPINION 32
INSTRUCTION NO. 22 - DELIBERATIONS 33

Dated: November 12, 2021



Kelly K.E. Mahoney,
United States Magistrate Judge
Northern District of Iowa

INSTRUCTION NO. 1 - INTRODUCTION

Members of the Jury: I am now going to give you some instructions about this case and about your duties as jurors. At the end of the trial, I will give you more instructions. I may also give you instructions during the trial. All instructions - those I give you now and those I give you later - whether they are in writing or given to you orally - are equally important and you must follow them all.

You must leave your cell phone, PDA, smart phone, iPhone, tablet computer, and any other wireless communication devices in the jury room during the trial and may only use them during breaks. However, you are not allowed to have those devices in the jury room during your deliberations. You may give them to the deputy clerk or court security officer for safekeeping just before you start to deliberate. They will be returned to you when your deliberations are complete.

This is a civil case brought by the Plaintiff Mark DeBower against Defendants Wendy Spencer, Skeeter Express, and Wagner Trucking. On October 30, 2017, in Bremer County, Iowa, a motor-vehicle collision occurred between a pick-up truck operated by Plaintiff DeBower and a semi-tractor-trailer operated by Defendant Spencer. At the time of the collision, Defendant Spencer was driving the semi-tractor-trailer for Defendants Skeeter Express and Wagner Trucking. Plaintiff DeBower alleges Defendant Spencer's negligence caused the collision and that he suffered injuries as a result. He seeks money damages for his injuries. Defendants admit that Spencer was negligent in failing to yield upon entering a through highway. Defendants also admit that Skeeter Express and Wagner Trucking are liable for Spencer's negligence, since she was acting within the scope of her employment at the time of the collision. Defendants allege that Plaintiff DeBower was also negligent and that his negligence was also a cause of his damages. It will be your duty to decide from the evidence whether Plaintiff DeBower is entitled to recover from Defendants and if so, the amount of damages.

Your duty is to decide what the facts are from the evidence. You are allowed to consider the evidence in the light of your own observations and experiences. After you

have decided what the facts are, you will have to apply those facts to the law that I give you in these and in my other instructions. That is how you will reach your verdict. Only you will decide what the facts are. However, you must follow my instructions, whether you agree with them or not. You have taken an oath to follow the law that I give you in my instructions.

Do not let sympathy, or your own likes or dislikes, influence you. The law requires you to come to a just verdict based only on the evidence, your common sense, and the law that I give you in my instructions, and nothing else.

Nothing I say or do during this trial is meant to suggest what I think of the evidence or what your verdict should be.

INSTRUCTION NO. 2 - CORPORATE DEFENDANTS

The fact that a party is a corporation or limited liability company should not affect your decision. All persons are equal before the law, and corporations and limited liability companies, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

INSTRUCTION NO. 3 - BURDEN OF PROOF

You will have to decide whether certain facts have been proved by the greater weight of the evidence. A fact has been proved by the greater weight of the evidence if you find that it is more likely true than not true. You decide that by considering all of the evidence and deciding what evidence is more believable.

You have probably heard the phrase “proof beyond a reasonable doubt.” That is a stricter standard than “more likely true than not true.” It applies in criminal cases, but not in this civil case; so put it out of your mind.

INSTRUCTION NO. 4 - EVIDENCE

When I use the word “evidence,” I mean:

- Testimony of witnesses, which may be either “live” or “by deposition.”
 - If a party testifies under oath on the witness stand or by live video, the party’s words constitute evidence.
 - A “deposition” is the recorded answers of a witness under oath to questions asked by a party or lawyer before trial. You should consider the deposition testimony, and judge its credibility, as you would that of any witness who testifies here in person or by live video.
- Answers to interrogatories, which are written answers, under oath, to written questions. The question and answer must be considered as if they had been stated in court.
- Exhibits admitted into evidence, such as documents and other things.
- Facts that I tell you the parties have agreed are true and any other facts that I tell you to accept as true.
 - You must treat stipulated facts as proved.

The following things are **not** evidence:

- Statements, arguments, questions, and comments by a lawyer.
- Exhibits that are not admitted into evidence.
- Objections and rulings on objections.
- Testimony that I tell you to disregard.
- Anything you see or hear about this case outside the courtroom.

Also, I might tell you that you can consider a piece of evidence for one purpose only, and not for any other purpose. If that happens, I will tell you what purpose you can consider the evidence for and what you are not allowed to consider it for. You need to pay close attention when I give an instruction about evidence that you can consider for

only certain purposes, because you might not have that instruction in writing later in the jury room.

Some of you may have heard the terms “direct evidence” and “circumstantial evidence.” You should not be concerned with those terms and should consider both kinds of evidence because the law makes no distinction between the weight to be given to direct and circumstantial evidence.

INSTRUCTION NO. 5 - TESTIMONY OF WITNESSES

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

You may consider a witness's intelligence; the opportunity the witness had to see or hear the things testified about; a witness's memory, knowledge, education, and experience; any reasons a witness might have for testifying a certain way; how a witness acted while testifying; whether a witness said something different at another time; whether a witness's testimony sounded reasonable; and whether or to what extent a witness's testimony is consistent with other evidence you believe.

In deciding whether to believe a witness, remember that people sometimes hear or see things differently and sometimes forget things. You will have to decide whether a contradiction is an innocent misrecollection, or a lapse of memory, or an intentional falsehood; that may depend on whether it has to do with an important fact or only a small detail.

INSTRUCTION NO. 6 - EXPERT WITNESS TESTIMONY

You may hear 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 education and experience of the witness, the reasons given for the opinion, and all the other evidence in the case.

The expert witnesses may be asked to assume certain facts are true and to give an opinion based on that assumption. This is called a hypothetical question. If any fact assumed in the question is not proved by the evidence, you should decide if that omission affects the value of the opinion.

***INSTRUCTION NO. 7 – DEMONSTRATIVE
SUMMARIES NOT RECEIVED AS EVIDENCE***

Certain diagrams and summaries may be shown to you in order to help explain the facts disclosed by the records or other underlying evidence in the case. These diagrams or summaries are used for convenience. They are not themselves evidence or proof of any facts. If they do not correctly reflect the facts shown by the evidence in the case, you should disregard these diagrams and summaries and determine the facts from the records or other underlying evidence.

INSTRUCTION NO. 8 - STIPULATED FACTS

The Plaintiff and Defendants have stipulated – that is, they have agreed – that the following facts are true:

- The motor vehicle collision at issue in this case occurred on October 30, 2017, between vehicles operated by Plaintiff DeBower and Defendant Spencer.
- At the time of the collision, Plaintiff DeBower was driving a pickup truck traveling west on Iowa Highway 3, and Defendant Spencer was driving a semi-tractor-trailer traveling northbound on an exit ramp from U.S. Highway 218, which intersected with Iowa Highway 3.
- Defendant Spencer was employed by Defendants Skeeter Express and Wagner Trucking at the time of the collision and acting within the scope of her employment.
- Defendant Spencer was negligent in failing to yield in entering an intersection where DeBower’s pickup truck had the right-of-way and that negligence was a cause of the collision.

You must, therefore, treat these facts as having been proved.

INSTRUCTION NO. 9 - NEGLIGENCE CLAIM

Plaintiff DeBower must prove all of the following propositions by a preponderance of the evidence:

First, Defendant Spencer was negligent in driving the semi-tractor-trailer. “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.

Plaintiff DeBower must prove Defendant Spencer was negligent in one or more of the following ways:

- a. In failing to keep a proper lookout; or
 - “Proper lookout” is the lookout a reasonable person would keep in the same or similar situation. It means more than looking and seeing. It includes being aware of the operation of the driver’s vehicle in relation to what the driver saw or should have seen.
- b. In failing to keep her vehicle under control; or
 - A vehicle is “under control” when the driver can guide and direct its movement, control its speed at a reasonable and proper rate, and stop it reasonably fast.
 - A driver operating a vehicle must have it under control and must reduce its speed to a reasonable and proper rate when approaching and traveling through a crossing or intersection of highways; reduction of speed is not required when the driver is already driving at a reasonable and proper rate. A driver traveling on a through highway is not required to decrease speed where intersecting traffic has a duty to yield and stop—unless or until the driver knows, or in the exercise of ordinary care should

know, that the other driver was not going to obey the law.

- c. In driving while distracted; or
- d. In failing to yield when entering an intersection where another vehicle had the right-of-way; or
 - The driver of a vehicle must stop or yield at the entrance to a through highway and must yield the right-of-way to other vehicles which have entered the intersection from the through highway or which are approaching so closely on the through highway that they are a danger. Then the driver, having yielded, may proceed to cautiously and carefully enter the through highway.
 - A “through highway” is a highway (or portion thereof) where traffic from intersecting highways must first stop at a stop sign before entering or crossing, or where intersections are controlled by a traffic signal.
- e. In failing to stop at a stop sign.
 - The driver of a vehicle must stop at a stop sign before entering the intersection. Before going ahead, the driver must yield the right-of-way to any vehicle in the intersecting road which has entered the intersection or which is approaching so closely that it is an immediate danger during the time the driver is moving through the intersection.

Second, the negligence caused damages to Plaintiff DeBower.

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

Third, the amount of damages.

If Plaintiff DeBower has failed to prove any of these propositions, he is not entitled to damages. If Plaintiff DeBower has proved all of these propositions, then you will consider the defense of comparative fault as explained in Instruction No. 10.

INSTRUCTION NO. 10 - COMPARATIVE FAULT DEFENSE

Damages may be the fault of more than one party. “Fault” means acting negligently. If you determine that Defendant Spencer acted negligently (as defined in Instruction No. 9), then you must determine whether or not Plaintiff DeBower was also at fault. To find Plaintiff DeBower at fault, Defendants must prove both of the following propositions by a preponderance of the evidence:

First, Plaintiff DeBower was negligent in one or more of the following ways:

- a. In failing to keep a proper lookout; or
 - “Proper lookout” is the lookout a reasonable person would keep in the same or similar situation. It means more than looking and seeing. It includes being aware of the operation of the driver’s vehicle in relation to what the driver saw or should have seen.
- b. In failing to keep his vehicle under control; or
 - A vehicle is “under control” when the driver can guide and direct its movement, control its speed at a reasonable and proper rate, and stop it reasonably fast.
 - A driver operating a vehicle must have it under control and must reduce its speed to a reasonable and proper rate when approaching and traveling through a crossing or intersection of highways; reduction of speed is not required when the driver is already driving at a reasonable and proper rate. A driver traveling on a through highway is not required to decrease speed where intersecting traffic has a duty to yield and stop—unless or until the driver knows, or in the exercise of ordinary care should know, that the other driver was not going to obey the law.
- c. In driving while distracted; or
- d. In driving at a speed over the speed limit; or

- The speed limit on Iowa Highway 3 is 55 miles per hour.
- e. In failing to drive at a reasonable and proper speed; or
- Any person driving a vehicle on a highway must drive at a careful speed not greater than nor less than is reasonable and proper, having due regard for the traffic, surface and width of the highway, and any other existing conditions.
- f. In failing to drive on the right half of the road; or
- Whenever any road has been divided into three or more clearly marked lanes for traffic, a vehicle must be driven as nearly as possible entirely within a single lane, and it must not be moved from the lane until the driver has seen that the movement can be made with safety.
- g. In failing to use his vehicle's headlights.
- Every motor vehicle on the highway must display lighted headlights bright enough to reveal persons and vehicles at a safe distance ahead at the following times: (1) from sunset to sunrise, and (2) when conditions such as fog, snow, sleet, or rain affect the lighting so that vehicles on the highway five hundred feet ahead are not clearly noticeable.

Second, Plaintiff DeBower's negligence was a cause of his damages.

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

If Defendants have failed to prove either of these propositions, they have not proved their comparative fault defense, and you must determine Plaintiff DeBower's damages as defined in Instruction No. ~~13~~¹². If Defendants have proved both of these propositions, then you should determine what percentage, if any, Plaintiff DeBower's

and Defendant Spencer's fault contributed to Plaintiff DeBower's damages. In comparing fault, you should consider all of the surrounding circumstances as shown by the evidence, together with the conduct of Plaintiff DeBower and Defendant Spencer and the extent of the causal relationship between their conduct and the damages claimed.

After you have compared the conduct of both parties involved in the collision, if you find Plaintiff DeBower was at fault and his fault was more than 50% of the total fault, Plaintiff DeBower cannot recover damages.

If you find Plaintiff DeBower's fault was 50% or less of the total fault, then you must determine Plaintiff DeBower's total damages as defined in Instruction No. ¹²~~13~~, and I will reduce the total damages by the percentage of his fault.

INSTRUCTION NO. 11 - LIABILITY OF EMPLOYER

An employer is liable for the negligent acts of an employee if the acts are done in the scope of employment. Because Wagner Trucking and Skeeter Express admit that Spencer was acting within the scope of her employment at the time of the collision, the court will hold all three Defendants liable for any negligence by Spencer in operating the semi-tractor-trailer at the time of the collision.

INSTRUCTION NO. 12 - DAMAGES

If you find for Plaintiff DeBower on his negligence claim, you must determine his damages by considering the following:

- Past loss of full body function, which means the inability of a particular part of the body to function in a normal manner from the date of injury to the present time.
- The present value of future loss of full body function.
- Past physical and mental pain and suffering from the date of 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.
- The present value of future physical and mental pain and suffering.

Any future damages must be reduced to present value. “Present value” is a sum of money paid now in advance that, together with interest earned at a reasonable rate of return, will compensate Plaintiff DeBower for future losses.

The amount you assess for physical and mental pain and suffering in the past and future, and loss of body function in the past and future 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 damages must not exceed the amount of damages caused by Spencer as proved by the evidence.

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Plaintiff DeBower is 24.89 years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the

other evidence, about Plaintiff DeBower's health, habits, occupation, and lifestyle, when deciding issues of future damages.

A party cannot recover duplicated 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 verdict form.

INSTRUCTION NO. 12A -- PREEXISTING CONDITION

If you find Plaintiff DeBower had a preexisting condition before the collision and this condition was aggravated by the collision causing further suffering or loss of body function, then he is entitled to recover damages caused by the aggravation. He is not entitled to recover for any physical ailment or disability which existed before the collision or for any injuries or damages which he now has which were not caused by Defendant Spencer's actions.

INSTRUCTION NO. 13 - QUOTIENT VERDICT

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 will be your item of damage.

INSTRUCTION NO. 14 - OUTLINE OF TRIAL

The trial will proceed in the following manner:

First, the Plaintiff's lawyer may make an opening statement. Next, the Defendants' lawyer may make an opening statement. An opening statement is not evidence, but it is a summary of the evidence the parties and lawyers expect you will see and hear during the trial.

After opening statements, the Plaintiff will then present evidence. The Defendants' lawyer will have a chance to cross-examine the Plaintiff's witnesses. After the Plaintiff has finished presenting his case, the Defendants may present evidence, and the Plaintiff's lawyer will have a chance to cross-examine Defendants' witnesses.

After you have seen and heard all of the evidence from all sides, the Plaintiff's and the Defendants' lawyers will make closing arguments that summarize and interpret the evidence. Just as with opening statements, closing arguments are not evidence. After the closing arguments, I will instruct you further on the law, and you will go to the jury room to deliberate and decide on your verdict.

INSTRUCTION NO. 15 - QUESTIONS BY JURORS

When the parties and lawyers have finished asking all of their questions of a witness, you will be allowed to propose questions in order to clarify the testimony.

- Do not express any opinion about the testimony or argue with a witness in your questions.
- Submit your questions in writing by passing them to the courtroom deputy.
- Do not sign your questions.

I will review each question with the parties and attorneys. I may not ask your question:

- I may decide that the question is not proper under the rules of evidence.
- Even if the question is proper, you may not get an immediate answer because a later witness or exhibit may answer your question.

Do not be concerned or embarrassed if your question is not asked; sometimes even parties' and lawyers' questions are not allowed. Remember, you are not advocates for either side, but impartial judges of the facts.

INSTRUCTION NO. 16 - OBJECTIONS

A party or lawyer may object when they believe something should not be a part of the trial. Do not be influenced one way or the other by objections. If I sustain an objection to a question or an exhibit, that means the law does not allow you to consider that information. When that happens, you have to ignore the question or the exhibit, and you must not try to guess what the information might have been.

INSTRUCTION NO. 17 - NOTE-TAKING

At the end of the trial, you will have to make your decision based on what you recall of the evidence. You will not have a written copy of the testimony to refer to. Because of this, you have to pay close attention to the testimony and other evidence as it is presented here in the courtroom.

If you wish, however, you may take notes to help you remember what witnesses say. If you do take notes, do not show them to anyone until you and your fellow jurors go to the jury room to decide the case after you have heard and seen all of the evidence. And do not let taking notes distract you from paying close attention to the evidence as it is presented. The Clerk will provide each of you with a pad of paper and a pen or pencil. At each recess, leave them on your chairs.

When you leave at night, your notes will be locked up and will not be read by anyone. They will be returned to you in the morning.

Upon reaching a verdict, you may leave the notes in the jury room, and they will be destroyed.

INSTRUCTION NO. 18 - BENCH CONFERENCES AND RECESSES

During the trial, I will sometimes need to talk privately with the parties and lawyers. I may talk with them here at the bench while you are in the courtroom, or I may call a recess and let you leave the courtroom while I talk with the parties and lawyers. Either way, please understand that while you are waiting, we are working. We have these conferences to make sure that the trial is proceeding according to the law and to avoid confusion or mistakes. We will do what we can to limit the number of these conferences and to keep them as short as possible.

INSTRUCTION NO. 19 - CONDUCT OF THE JURY

Jurors, to make sure this trial is fair to all parties, you must follow these rules:

First, do not talk or communicate among yourselves about this case, or about anyone involved with it, until the end of the case when you go to the jury room to consider your verdict.

Second, do not talk with anyone else about this case, or about anyone involved with it, until the trial has ended and you have been discharged as jurors.

Third, when you are outside the courtroom, do not let anyone tell you anything about the case, or about anyone involved with it until the trial has ended and your verdict has been accepted by me. If someone tries to talk to you about the case during the trial, please report it to the court security officer or courtroom deputy.

Fourth, during the trial, do not talk with or speak to any of the parties, lawyers, or witnesses in this case – not even to pass the time of day. It is important not only that you do justice in this case, but also that you act accordingly. If a person from one side of the lawsuit sees you talking to a person from the other side – even if it is just about the weather – that might raise a suspicion about your fairness. So, when the lawyers, parties, and witnesses do not speak to you in the halls, on the elevator, or the like, understand that they are not being rude. They know they are not supposed to talk to you while the trial is going on, and they are just following the rules.

Fifth, you may need to tell your family, close friends, and other people that you are a part of this trial. You can tell them when you have to be in court, and you can warn them not to ask you about this case, tell you anything they know or think they know about this case, or talk about this case in front of you. But, you must not communicate with anyone or post information in any manner about the parties, witnesses, participants, claims, evidence, or anything else related to this case. You must not tell anyone anything about the jury's deliberations in this case until after I accept your verdict or until I give you specific permission to do so. If you talk about the case with someone besides the other jurors during deliberations, it looks as if you might already have decided the case

or that you might be influenced in your verdict by their opinions. That would not be fair to the parties, and it might result in the verdict being thrown out and the case having to be tried over again. During the trial, while you are in the courthouse and after you leave for the day, do not give any information to anyone, by any means, about this case.

For example, do not talk face-to-face or use any electronic device, such as a telephone, cell phone, smart phone, Blackberry, PDA, computer, or computer-like device.

Likewise, do not use the Internet or any Internet service; do not text or send instant messages; do not go on an Internet chat room, blog, or other websites such as Facebook, YouTube, Twitter, or Snapchat. In other words, do not communicate with anyone about this case – except for the other jurors during deliberations – until I accept your verdict.

Sixth, do not do any research – on the Internet, in libraries, newspapers, or otherwise – and do not investigate this case on your own. Do not visit or view any place discussed in this case, and do not use the Internet or other means to search for or view any place discussed in the testimony. Also, do not look up any information about this case, the law, or the people involved, including the parties, the witnesses, the lawyers, or the court.

Seventh, do not read any news stories or Internet articles or blogs that are about the case, or about anyone involved with it. Do not listen to any radio, television, or digital-streaming reports about the case or about anyone involved with it. In fact, until the trial is over, I suggest that you avoid reading any news stories at all, and avoid listening to any television, radio, or digital-streaming newscasts at all. I do not know whether there will be news reports about this case, but if there are, you might accidentally find yourself reading or listening to something about the case. If you want, you can have someone collect information or clip out any stories and set them aside to give to you after the trial is over. I can assure you, however, that by the time you have heard all the evidence in this case, you will know what you need to return a just verdict.

The parties have a right to have you decide their case based only on evidence admitted here in court. If you research, investigate, or experiment on your own, or get information from other sources, your verdict might be influenced by inaccurate, incomplete, or misleading information. Witnesses here in court take an oath to tell the truth, and the accuracy of their testimony is tested through cross-examination. All of the parties are entitled to a fair trial and an impartial jury, and you have to conduct yourselves in a way that assures the integrity of the trial process. If you decide a case based on information not admitted in court, you will deny the parties a fair trial. You will deny them justice. Remember, you have taken an oath to follow the rules, and you must do so.

Eighth, do not make up your mind during the trial about what your verdict should be. Keep an open mind until after you and your fellow jurors have discussed all the evidence.

INSTRUCTION NO. 20 - ADDITIONAL INSTRUCTIONS

Members of the jury, the instructions I gave at the beginning of the trial and during the trial are still in effect. Now I am going to give you some additional instructions.

You have to follow all of my instructions – the ones I gave you earlier, as well as those I give you now. Do not single out some instructions and ignore others, because they are all important. This is true even though I am not going to repeat some of the instructions I gave you at the beginning of or during the trial.

Remember, you have to follow all instructions, no matter when I give them, and whether or not you have written copies.

INSTRUCTION NO. 21 - JUDGE'S OPINION

I have not intended to suggest what I think your verdicts should be by any of my rulings or comments during the trial.

INSTRUCTION NO. 22 - DELIBERATIONS

There are rules you must follow when you go to the jury room to deliberate and return with your verdict.

First, you will select a foreperson. That person will preside over your discussions and speak for you here in court.

Second, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement, if you can do this without going against what you believe to be the truth, because all jurors have to agree on the verdict.

- *All phones and electronic devices will be locked up in a separate room.*
- *If one juror leaves the jury room, ALL discussions about the case must stop.*
- *If a juror leaves the jury room, a court security officer must accompany them and have them in view.*

Each of you must come to your own decision, but only after you have considered all the evidence, discussed the evidence fully with your fellow jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your mind if the discussion persuades you that you should. But, do not come to a decision just because other jurors think it is right, or just to reach a verdict. Remember you are not for or against any party. You are judges – judges of the facts. Your only job is to study the evidence and decide what is true.

Third, if you need to communicate with me during your deliberations, send me a note signed by one or more of you. Place the note in a sealed envelope and give the note to the designated court employee. I will answer you as soon as I can, either in writing or here in court. While you are deliberating, do not tell anyone - including me - how many jurors are voting for any side.

Fourth, your verdict has to be based only on the evidence and on the law that I have given to you in my instructions. Nothing I have said or done was meant to suggest what I think your verdict should be. The verdict is entirely up to you.

Finally, the verdict form is your written decision in this case. You will take this form to the jury room, and when you have all agreed on the verdicts, your foreperson will fill in the form and sign and date it. Write “we have reached a verdict” on a sheet of paper and have at least one juror sign it, place it in an envelope, and give it to the designated court employee.

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

MARK DEBOWER,

Plaintiff,

v.

WENDY DAWN SPENCER; WAGNER
TRUCKING, INC.; and SKEETER
EXPRESS SPECIALIZED, LLC;

Defendants.

No. 20-CV-2010-KEM

VERDICT FORM

We the jury unanimously find the following verdict on the questions submitted:

Question 1 – Plaintiff Mark DeBower’s Negligence Claim:

Was Defendant Wendy Dawn Spencer negligent as defined in Instruction No. 9?
(mark “yes” or “no”)

_____ YES _____ NO

If your answer is yes, move on and answer Question 2. If your answer is no, do not answer any more questions and sign and date the Verdict Form.

Question 2 – Defendants’ Comparative Fault Defense:

Was Plaintiff Mark DeBower at fault as defined in Instruction No. 10?
(mark “yes” or “no”)

_____ YES _____ NO

If your answer is yes, move on and answer Question 3. If your answer is no, proceed to question 4.

Question 3 – Defendants’ Comparative Fault Defense:

Using 100% as the total combined fault of Plaintiff Mark DeBower and Defendant Wendy Spencer, what percentage of combined fault do you assign to Plaintiff Mark DeBower and what percentage of combined fault do you assign to Defendant Wendy Spencer?

Plaintiff Mark DeBower	_____ %
Defendant Wendy Dawn Spencer	_____ %
Total:	100%

If you find Plaintiff DeBower more than 50% at fault, do not answer any more questions and sign and date the Verdict Form. If you find Plaintiff DeBower 50% at fault or less, move on and answer Question 4.

Question 4 – Damages:

State the amount of damages, if any, sustained by Plaintiff DeBower as to each of the following items of damage. If Plaintiff DeBower has failed to prove any item of damage, or has failed to prove any item of damage was caused by Defendant Spencer’s negligence, enter \$0 for that item.

- | | |
|--------------------------------------------------|----------|
| 1. Past Loss of Full Body Function | \$ _____ |
| 2. Future Loss of Full Body Function | \$ _____ |
| 3. Past Physical and Mental Pain and Suffering | \$ _____ |
| 4. Future Physical and Mental Pain and Suffering | \$ _____ |
| TOTAL | \$ _____ |

Please sign and date the Verdict Form.

Date

Foreperson Signature