

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION

JERRI L. BAILEY,

Plaintiff,

v.

CHEROKEE REGIONAL MEDICAL  
CENTER,

Defendant.

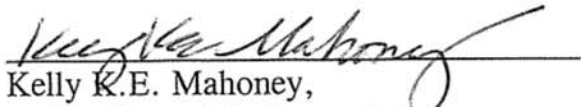
No. 16-CV-4136-KEM

COURT'S INSTRUCTIONS TO THE  
JURY

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VERDICT FORM

Dated: 8/13/2018

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

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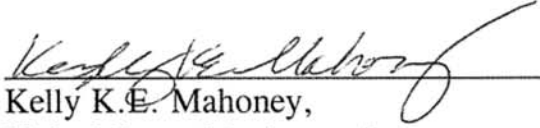
**COURT'S INSTRUCTIONS TO THE  
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**INSTRUCITON NO. 20A – JUDGE’S QUESTIONS. . . . .27A**

Dated: 8/14/2018

  
\_\_\_\_\_  
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 Jerri Bailey against Defendant Cherokee Regional Medical Center. On December 15, 2014, after Ms. Bailey had completed physical therapy involving pool exercises at Cherokee Regional Medical Center in Cherokee, Iowa, she fell in the shower/changing area. Ms. Bailey claims that she fell due to Cherokee Regional Medical Center's negligence and that she suffered injuries as a result. Ms. Bailey seeks money damages for her injuries. Cherokee Regional Medical Center denies it was negligent or that it was the cause of Ms. Bailey's damages. Cherokee Regional Medical Center claims that Ms. Bailey was negligent and that her negligence was a cause of her damages. It will be your duty to decide from the evidence whether Ms. Bailey is entitled to recover from Cherokee Regional Medical Center.

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 – THE PARTIES IN THIS CASE***

The fact that Cherokee Regional Medical Center is an entity should not affect your decision. All individuals and entities are equal before the law and are entitled to the same fair and conscientious consideration.

Ms. Bailey has decided to represent herself in this trial and not to use the services of a lawyer. That decision must not affect your consideration of this case. Because Ms. Bailey has decided to act as her own lawyer, you will hear her speak at various times during trial. She may make an opening statement and closing argument. She may ask questions of witnesses, make objections, and argue legal issues to the court. I want to remind you that when Ms. Bailey speaks in these parts of the trial, she is acting as a lawyer in this case, and her words are not evidence.

***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. 3A – BURDEN OF PROOF***

Whenever a party must prove something, they must do so by the greater weight of the evidence, which is defined in Instruction No. 3.

### *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, such as Ms. Bailey, testifies under oath on the witness stand, 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.
- 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.
- Statements, arguments, questions, and comments by a party when the party is not under oath on the witness stand.
- 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 – STIPULATED FACTS***

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

- On December 15, 2014, after attending a physical therapy session at Cherokee Regional Medical Center, in Cherokee, Iowa, Jerri Bailey fell in the shower/changing area.
- Ms. Bailey was found lying on the ground in the shower/changing area.

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

***INSTRUCTION NO. 8 – NEGLIGENCE CLAIM***

Plaintiff Jerri Bailey must prove all of the following propositions:

*First*, Defendant Cherokee Regional Medical Center knew—or in the exercise of ordinary care should have known—of a condition on the premises that involved an unreasonable risk of injury to a person in Ms. Bailey’s position.

- The owner or occupier of a premises is presumed to know all conditions on the premises that are caused or created by it or its employees. The owner or occupier of a premises is not responsible for an injury suffered by a person on the premises which resulted from a condition of which the owner or occupier had no knowledge, unless the condition existed for a long enough time that in the exercise of ordinary care the owner or occupier should have known about it.

*Second*, Cherokee Regional Medical Center knew—or in the exercise of ordinary care should have known—

- a. that Ms. Bailey would not discover the condition, or
  - b. that Ms. Bailey would not realize the condition presented an unreasonable risk of injury, or
  - c. that Ms. Bailey would not protect herself from the condition.
- A defendant is not liable for injuries or damages caused by a condition that is known or obvious to a person in the Plaintiff’s position unless the defendant should anticipate the harm to the Plaintiff despite knowledge or obviousness of the condition.

*Third*, Cherokee Regional Medical Center was negligent by failing to maintain the shower/changing area in a safe condition.

- “Negligence” means failure to use ordinary care. “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.

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

*Fourth*, the negligence was a cause of Ms. Bailey's 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.

*Fifth*, the amount of damages.

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

***INSTRUCTION NO. 9 – NEGLIGENCE: DEFINITIONS***

A condition is “known” if one is aware of it and of the risk of harm it presents. A condition is “obvious” when both the condition and risk of harm are apparent to and would be recognized by a reasonable person, in the position of a visitor, exercising ordinary perception, intelligence, and judgment.

“Ordinary care” is the care which a reasonably careful person would use under similar circumstances. Owners or occupiers of a building owe a duty to exercise ordinary care in the maintenance of their premises for the protection of lawful visitors.

When evaluating whether the first, second, and third propositions of Instruction No. 8 have been proven, you may consider the following factors to determine whether Cherokee Regional Medical Center has exercised ordinary care for the protection of lawful visitors:

- The foreseeability or possibility of harm;
- The purpose for which the visitor entered the premises;
- The time, manner, and circumstances under which the visitor entered the premises;
- The use to which the premises are put or are expected to be put;
- The reasonableness of the inspection or warning;
- The opportunity and ease of repair or correction or giving of the warning;
- The burden on the land occupier and/or community in terms of inconvenience or cost in providing adequate protection; and
- Any other factor shown by the evidence bearing on this question.

**INSTRUCTION NO. 10 – COMPARATIVE FAULT DEFENSE**

Damages may be the fault of more than one party. If you determine that Defendant Cherokee Regional Medical Center acted negligently (as defined in Instruction Nos. 9 and 10), then you must determine whether or not Plaintiff Jerri Bailey was also at fault. To find Ms. Bailey at fault, Cherokee Regional Medical Center must prove both of the following propositions by a preponderance of the evidence:

*First*, Ms. Bailey was negligent by failing to keep a proper lookout.

- “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 one’s movements in relation to things seen or that could have been seen in the exercise of ordinary care.

*Second*, Ms. Bailey’s negligence was a cause of her damages.

If Cherokee Regional Medical Center has failed to prove either of these propositions, it has not proved its comparative fault defense, and you must determine Ms. Bailey’s damages as defined in Instruction No. 11. If Cherokee Regional Medical Center has proved both of these propositions, then you should determine what percentage, if any, each party’s fault contributed to Ms. Bailey’s damages. In comparing fault, you should consider all of the surrounding circumstances as shown by the evidence, together with the conduct of Ms. Bailey and Cherokee Regional Medical Center and the extent of the causal relationship between their conduct and the damages claimed.

After you have compared the conduct of both parties, if you find Ms. Bailey was at fault and her fault was more than 50% of the total fault, Ms. Bailey cannot recover damages.

If you find Ms. Bailey’s fault was 50% or less of the total fault, then you must determine Ms. Bailey’s total damages as defined in Instruction No. 11, and I will reduce the total damages by the percentage of her fault.



### *INSTRUCTION NO. 11 – DAMAGES*

If you find for Ms. Bailey on her negligence claim, you must determine her damages by considering the following:

- Past medical expenses, which means the reasonable cost of necessary hospital and doctor charges, prescriptions, and other medical services from the date of injury to the present time. In determining the reasonable cost of these items, you may consider:
  - the amount actually paid, or
  - any other evidence of what is reasonable and proper for such medical expense.

You may, but are not required to, reduce any damages for past medical expenses by the amount, if any, that Ms. Bailey's insurance company paid to Ms. Bailey's medical providers. You should not, however, reduce past medical expense damages by amounts that Ms. Bailey will have to refund or repay to her insurance company.

If you reduce Ms. Bailey's damages for prior payments made by her insurance company to her medical providers, you may award Ms. Bailey the cost of her insurance policy under the category of past medical expenses.

- Past loss of earnings, which means the reasonable value of lost wages from the date of injury to the present time.
- The present value of loss of future earning capacity.
  - Loss of future earning capacity is the reduction in the ability to work and earn money generally, rather than in a particular job.
- Past loss of full mind and/or body function, which means the loss of function of the mind and/or body from the date of injury to the present time.
  - Loss of mind and/or body is the inability of a particular part of the mind and/or body to function in a normal manner.

- The present value of future loss of full mind and/or body function.
- 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 Ms. Bailey for future losses.

The amount you assess for physical and mental pain and suffering in the past and future, future earning capacity, and loss of mind and 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 caused by a party as proved by the evidence.

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. 12 - 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 shall be your item of damage.

***INSTRUCTION NO. 13 - OUTLINE OF TRIAL***

The trial will proceed in the following manner:

First, the Plaintiff may make an opening statement. Next, the Defendant's 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 Defendant's lawyer will have a chance to cross-examine the Plaintiff's witnesses. After the Plaintiff has finished presenting her case, the Defendant may present evidence, and the Plaintiff will have a chance to cross-examine Defendant's witnesses.

After you have seen and heard all of the evidence from all sides, the Plaintiff and the Defendant's lawyer 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. 14 – 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. 15 – 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. 16 – 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. 17 - 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. 18 - 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. 19 - 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. 20A - JUDGE'S QUESTIONS***

The rules allow a judge to ask questions of a witness to clarify testimony and elicit necessary facts. Any questions I asked of witnesses during trial do not reflect my opinion on those matters or about this case, and were only intended to clarify the testimony or bring out facts that had not been fully covered by testimony in order to avoid confusion.

*INSTRUCTION NO. 20 - 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. 21 - 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.



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JERRI L. BAILEY,

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v.

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No. 16-CV-4136-KEM

**VERDICT FORM**

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

**Question 1 – Plaintiff Jerri Bailey’s Negligence Claim:**

Was Defendant Cherokee Regional Medical Center negligent as defined in Instruction Nos. 8 and 9?

(mark “yes” or “no”)

\_\_\_\_\_ YES      \_\_\_\_\_ NO

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

**Question 2 – Defendant Cherokee Regional Medical Center’s Comparative Fault Defense:**

Was Plaintiff Jerri Bailey at fault as defined in Instruction No. 10?

(mark “yes” or “no”)

\_\_\_\_\_ YES      \_\_\_\_\_ NO

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

**Question 3 – Defendant Cherokee Regional Medical Center’s Comparative Fault Defense:**

Using 100% as the total combined fault of Plaintiff Jerri Bailey and Defendant Cherokee Regional Medical Center, what percentage of such combined fault do you assign to Plaintiff Jerri Bailey and what percentage of combined fault do you assign to Defendant Cherokee Regional Medical Center?

Plaintiff Jerri Bailey	_____ %
Defendant Cherokee Regional Medical Center	_____ %
Total:	100 %

If you find Ms. Bailey more than 50% at fault, do not answer any more questions and sign and date the Verdict Form. If you find Ms. Bailey 50% at fault or less, proceed to question 4.

**Question 4 – Damages:**

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

1. Past Medical Expenses \$ \_\_\_\_\_
  2. Loss of Past Earnings \$ \_\_\_\_\_
  3. Loss of Future Earning Capacity \$ \_\_\_\_\_
  4. Past Loss of Full Mind/Body Function \$ \_\_\_\_\_
  5. Future Loss of Full Mind/Body Function \$ \_\_\_\_\_
  6. Past Physical and Mental Pain and Suffering \$ \_\_\_\_\_
  7. Future Physical and Mental Pain and Suffering \$ \_\_\_\_\_
- TOTAL \$ \_\_\_\_\_

Proceed to the next page.

If you awarded Ms. Bailey any damages for past medical expenses, proceed to question 5. If you did not award Ms. Bailey any damages for past medical expenses, sign and date the verdict form.

**Question 5 – Previously Paid Past Medical Expenses:**

State the amount of past medical expenses, if any, that you find have already been paid by Ms. Bailey’s insurance company. (If none, enter \$0.)

\$ \_\_\_\_\_

If your answer is \$0, sign and date the verdict form. If your answer is more than \$0, proceed to question 6.

**Question 6 – Refunding Previously Paid Past Medical Expenses:**

State the amount of past medical expenses previously paid by Ms. Bailey’s insurance company, if any, that you find Ms. Bailey must refund or repay to her insurance company.

\$ \_\_\_\_\_

**Please sign and date the Verdict Form.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Foreperson Signature

If deliberations last longer than six hours, jurors agreeing to the verdict should sign below. If deliberations last six hours or less, leave the following lines blank.

\_\_\_\_\_  
Juror

\_\_\_\_\_  
Juror

\_\_\_\_\_  
Juror

\_\_\_\_\_  
Juror

\_\_\_\_\_  
Juror

\_\_\_\_\_  
Juror

\_\_\_\_\_  
Juror

\_\_\_\_\_  
Juror