

EVELYN WELLS ROBISON
CLERK DISTRICT COURT
FILED

OCT 27 1994 9:30 AM

GALVESTON COUNTY, TEXAS
BY Angela Lasswell
Deputy

COPY

NO. 92CV0093

RECEIVED
MAY - 3 2006

INGRID NORRIS

VS

MID-CENTURY INSURANCE CO. OF TEXAS

IN THE DISTRICT COURT

GALVESTON COUNTY, TEXAS

56TH JUDICIAL DISTRICT

CHARGE OF THE COURT

CODED

LADIES AND GENTLEMEN OF THE JURY:

This case is submitted to you by asking questions about the facts, which you must decide from the evidence you have heard in this trial. You are the sole judges of the credibility of the witnesses and the weight to be given their testimony, but in matters of law, you must be governed by the instructions in this charge. In discharging your responsibility on this jury, you will observe all the instructions which have previously been given you. I shall now give you additional instructions which you should carefully and strictly follow during your deliberations.

1. Do not let bias, prejudice or sympathy play any part in your deliberations.

2. In arriving at your answers, consider only the evidence introduced here under oath and such exhibits, if any, as have been introduced for your consideration under the ruling of the Court, that is, what you have seen and heard in this courtroom, together with the law as given you by the court. In your deliberations you will not consider or discuss anything that is not represented by the evidence in this case.

3. Since every answer that is required by the charge is important, no juror should state or consider that any required answer is not important.

4. You must not decide who you think should win, and then try to answer the questions accordingly. Simply answer the questions, and do not discuss nor concern yourselves with the effect of your answers.

5. You will not decide the answer to a question by lot or by drawing straws, or by any other method of chance. Do not return a quotient verdict. A quotient verdict means that the jurors agree to abide by the result to be reached by adding together each juror's figures and dividing by the number of jurors to get an average. Do not do any trading on your answers; that is, one juror should not agree to answer a certain question one way if others will agree to answer another question another way.

6. You may render your verdict upon the vote of ten or more members of the jury. The same ten or more of you must agree upon all of the answers made and to the entire verdict. You will not, therefore, enter into an agreement to be bound by a majority or any other vote of less than ten jurors. If the verdict and all of the answers therein are reached by unanimous agreement, the presiding juror shall sign the verdict for the entire jury. If any juror disagrees as to any answer made by the verdict, those jurors who agree to all findings shall each sign the verdict.

These instructions are given you because your conduct is subject to review the same as that of the witnesses, parties, attorneys and the judge. If it should be found that you have disregarded any of these instructions, it will be jury misconduct and it may require another trial by another jury; then all of our time will have been wasted.

The presiding juror or any other who observes a violation of the court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.

When words are used in this charge in a sense which varies from the meaning commonly understood, you are given a proper legal definition, which you are bound to accept in place of any other meaning.

Answer "Yes" or "No" to all questions unless otherwise instructed. A "Yes" answer must be based on a preponderance of the evidence. If you do not find that a preponderance of the evidence supports a "Yes" answer, then answer "No". The term "preponderance of the evidence" means the greater weight and degree of credible testimony or evidence introduced before you and admitted in this case.

Whenever a question requires other than a "Yes" or "No" answer, your answer must be based on a preponderance of the evidence.

QUESTION NO. 1

Did the negligence, if any, of persons or entities named below proximately cause the occurrence in question.

Answer "Yes" or "No" for each of the following:

Juan Bejarano

YES

Ingrid Norris

NO

"Negligence", means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

If, in answer to Question No. 1, you have found that more than one of the parties' act(s) or omission(s) caused the occurrence, then answer the following question. Otherwise do not answer the following question.

The percentages you find must total 100 percent. The percentage of causation attributable to a person or product is not necessarily measured by the number of acts or omissions found.

QUESTION NO. 2

For each person or product found by you to have caused the occurrence, find the percentage caused by:

Juan Bejarano

Ingrid Norris

TOTAL

_____ 100 % _____

QUESTION NO. 3

What sum of money, if paid now in cash, would fairly and reasonably compensate Ingrid Norris for her injuries, if any, that resulted from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not include damages for one element in any other element. Do not include interest on any amount of damages you find.

- Element a. Physical pain and mental anguish
- Element b. Loss of earning capacity.
- Element c. Physical impairment.
- Element d. Medical care.

Do not reduce the amounts, if any, in your answers because of the negligence, if any, of Ingrid Norris.

Do not include any amount for any condition existing before the occurrence in question, except to the extent, if any, that such other condition was aggravated by any injuries that resulted from the occurrence in question.

Answer in dollars and cents for damages, if any, that were sustained in the past and that in reasonable probability will be sustained in the future.

Answer: \$ 475,000

If, in answer to Question 1, you have found that the negligence of Juan Bejarano proximately caused the occurrence, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 4

Was such negligence of Juan Bejarano "gross negligence"?

"Gross negligence" means more than momentary thoughtlessness, inadvertence, or error of judgment. It means such an entire want of care as to establish that the act or omission in question was the result of actual conscious indifference to the rights, welfare, or safety of the persons affected by it.

Answer "Yes" or "No"

ANSWER: YES

QUESTION NO. 5

What sum of money, if any, should be assessed against Juan Bejarano, for his conduct and awarded to Ingrid Norris as exemplary damages?

"Exemplary damages: means an amount that you may in your discretion award as an example to others and as a penalty or by way of punishment, in addition to any amount that you may have found as actual damages.

Answer in dollars and cents, if any.

Answer: \$ 475,000

After you retire to the jury room, you will select your own presiding juror. The first thing the presiding juror will do is to have this complete charge read aloud and then you will deliberate upon your answers to the questions asked.

It is the duty of the presiding juror:

1. to preside during your deliberations,
2. to see that your deliberations are conducted in an orderly manner and in accordance with the instructions in this charge,
3. to write out and hand to the bailiff any communications concerning the case that you desire to have delivered to the judge,
4. to vote on the questions,
5. to write your answers to the questions in the spaces provided, and
6. to certify to your verdict in the space provided for the presiding juror's signature or to obtain the signatures of all the jurors who agree with the verdict if your verdict is less than unanimous.

You should not discuss the case with anyone, not even with other members of the jury, unless all of you are present and assembled in the jury room. Should anyone attempt to talk to you about the case before the verdict is returned, whether at the courthouse, at your home, or elsewhere, please inform the judge of this fact.

When you have answered all the questions you are required to answer under the instructions of the judge and your presiding juror has placed your answers in the spaces provided and signed the verdict as presiding juror or obtained the signatures, you will inform the bailiff at the door of the jury room that you have reached a verdict, and then you will return into court with your verdict.

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GALVESTON COUNTY, TEXAS
BY Angela J. [Signature] Deputy

[Signature]
Judge Presiding

CERTIFICATE

We the jury, have answered the above and foregoing Questions as herein indicated, and herewith return same into court as our verdict. (To be signed by the presiding juror)

3:03 PM
10-27-94

Cornwall
Presiding Juror

(To be signed by those rendering the verdict if not unanimous)

Paul McLean
Edwin [unclear]
Sheila Buckley
Jim [unclear]
Joseph A. Deslattes
Phillip Brown

William McMillan
Margaret Ramirez
Agnes Thomas
Cornwall

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GALVESTON COUNTY, TEXAS
BY Angela [unclear]
Deputy