

Refused,  
Dwight J. Massachusetts  
Judge.

NEGLIGENCE IS THE FAILURE TO DO WHAT A REASONABLE AND PRUDENT PERSON WOULD HAVE DONE UNDER THE CIRCUMSTANCES OR THE SITUATION, OR DOING THAT WHICH A PRUDENT PERSON UNDER EXISTING CIRCUMSTANCES WOULD NOT HAVE DONE.

THE BURDEN OF PROOF RESTS UPON THE PLAINTIFF IN THIS ACTION TO PROVE THAT THESE DAMAGES RECEIVED WERE ON ACCOUNT OF THE NEGLIGENCE OF THE DEFENDANT. SHE STARTS OUT WITH THAT BURDEN OF PROOF. IF SHE MAKES A PRIMA FACIE CASE BEFORE YOU, THEN THE BURDEN OF PROOF IS SHIFTED AND IT RESTS UPON THE DEFENDANT TO MAKE GOOD HIS SPECIAL PLEA OF CONTRIBUTORY NEGLIGENCE.

Refused  
Jefair J. Masterson  
Judge

THE COURT CHARGES THE JURY THAT EVEN IF YOU SHOULD BE REASONABLY SATISFIED FROM THE EVIDENCE IN THIS CASE THAT THE PLAINTIFF WAS GUILTY OF CONTRIBUTORY NEGLIGENCE, YET IF YOU ARE FURTHER REASONABLY SATISFIED FROM THE EVIDENCE THAT THE DEFENDANT BECAME AWARE OF THE PERIL OF THE PLAINTIFF IN TIME TO AVOID INFLECTING THE DAMAGE BY THE PROPER USE OF PREVENTIVE MEANS AT HIS COMMAND, BUT NEGLIGENTLY FAILED TO RESORT TO SUCH MEANS, THEN YOUR VERDICT SHOULD BE FOR THE PLAINTIFF.

*Respectfully*  
*Julius J. Washburn*  
*Judge*

I CHARGE YOU, GENTLEMEN OF THE JURY, THAT ORDINARY CARE IS THAT CARE WHICH ORDINARILY PRUDENT PERSONS WOULD EXERCISE UNDER THE SAME, LIKE, OR SIMILAR CIRCUMSTANCES, AND THAT THE WANT OF THAT CARE IS NEGLIGENCE.

Refused,  
Jefau J. Massabian  
Judge.

THE COURT CHARGES THE JURY THAT THE BURDEN OF PROVING  
CONTRIBUTORY NEGLIGENCE RESTS UPON THE DEFENDANT.

Refused,  
Jeffrey J. Maslowski  
Judge