

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 1

I charge you, members of the jury, that you must return a verdict in favor of the defendant, Complete Auto Transit, Inc.

*Refused  
maslawn*

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 2

I charge you, members of the jury, that if you believe the evidence in this case, you must return a verdict in favor of the defendant, Complete Auto Transit, Inc.

*Refused*

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 3

I charge you, members of the jury, that you cannot return a verdict in favor of the plaintiff and against the defendant, Complete Auto Transit, Inc.

*Refused*

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 6

I charge you, members of the jury, that, if you properly observe your sworn duty as jurors, you, in rendering your verdict, will be governed alone by the legal evidence given to you and by the charge and instructions of this court. This is the requirement of your oath and you must weigh the evidence impartially in order that you may arrive at the facts and render a conscientious verdict. Natural persons and corporations, the richest and poorest, the highest and the most humble, are alike equal before the law, have the same and only the same rights and are under the same and only the same liabilities. There is no room or place in the jury box for partiality or prejudice.

Given,  
Jefair J. Madubwa  
Judge

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 1

I charge you, members of the jury, that, insofar as Complete Auto Transit, Inc., is concerned, the burden is upon the plaintiff in this case to establish to your reasonable satisfaction from the evidence that said defendant was guilty of negligence as is charged against it in the complaint and that such negligence, if any, was the proximate cause of the damages complained of by the plaintiff. I further charge you that such negligence cannot be inferred by you simply from a showing by the plaintiff that an accident occurred which resulted in his damages, and that you may not guess or speculate as to whether said defendant was guilty of negligence which proximately caused the damages complained of.

*Signed,*  
*Jefair J. MacLennan*  
*Judge*

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 8

I charge you, members of the jury, that, insofar as the defendant, Complete Auto Transit, Inc., is concerned, the plaintiff has the burden of proving to your reasonable satisfaction from the evidence in this case that said defendant was guilty of negligence as is charged in the plaintiff's complaint and, further, that such negligence, if any, was the proximate cause of the damages complained of by the plaintiff. I further charge you that the proximate cause of an injury is that cause which, in the natural and probable sequence of events and without the intervention of any new or independent cause, produces the injury and without which such injury would not have occurred.

*Sven,  
Jeffrey J. Moulton  
Judge*

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 9

I charge you, members of the jury, that the law does not require that a truck driver drive his truck in a perfect manner, but only that he operate his truck as a reasonably prudent truck driver under the same or similar circumstances would do, and if you are reasonably satisfied from all of the evidence in this case that William Wright did, on the occasion complained of, operate his truck as a reasonably prudent truck driver would have done under the same or similar circumstances, then you may not return a verdict in this case in favor of the plaintiff and against the defendant, Complete Auto Transit, Inc.

*Wright*  
*Debra J. Madlbum*  
*Judge*

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 10

I charge you, members of the jury, that if you are reasonably satisfied from all of the evidence in this case that William Wright, the operator of the Complete Auto Transit, Inc. truck, acting in the line and scope of his employment as such, operated his motor vehicle on the occasion complained of with the degree of care that a reasonably prudent person would have employed under the same or similar circumstances, then, in that event, you need not further consider the plaintiff's case against the defendant, Complete Auto Transit, Inc., as you cannot find for the plaintiff and against the defendant, Complete Auto Transit, Inc.

*Sworn*  
*J. J. Madison*  
*Judge*



COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 11

I charge you, members of the jury, that if you are reasonably satisfied from all of the evidence in this case that a proximate contributing cause of the plaintiff's damages was the negligence of the operator of the plaintiff's tanker on the occasion complained of in failing to operate that tanker at a reasonable and prudent speed, taking into account the conditions existing at the time, then you may not return a verdict in this case in favor of the plaintiff and against the defendant, Complete Auto Transit, Inc.

*Refused;  
Sifain J. Maslowski  
Judge*

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 12

I charge you, members of the jury, that if you are reasonably satisfied from all of the evidence in this case that the driver of the Mothershead Oil Company tanker on the occasion complained of, through his own negligent conduct in and about the operation of that vehicle proximately caused or contributed to the emergency situation resulting in the plaintiff's damages, then I further charge you that you may not return a verdict in favor of the plaintiff in this case on the ground that its driver's acts were done in the stress of an emergency.

*Refused*  
*Jeffrey J. Madisew*  
*Judge*

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 13

I charge you, members of the jury, that even if you are reasonably satisfied from all of the evidence in this case that the driver of the Mothershead Oil Company tanker on the occasion complained of was confronted with a sudden emergency, I further charge you that this circumstance alone will not relieve the driver of the Mothershead Oil Company tanker from responsibility in this case if you are further reasonably satisfied from all of the evidence in this case that the emergency was one which, in the exercise of reasonable care, was foreseeable or reasonably to be anticipated or if the driver of the Mothershead Oil Company tanker wrongfully or voluntarily placed himself in a dangerous position by failing to exercise reasonable care in the operation of the tanker on the occasion complained of.

*Signed,  
Jeffrey A. Masterson  
Judge*

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 14

I charge you, members of the jury, that Title 36, §89(b)(3), Code of Alabama 1940 (Recomp. 1958), as last amended, reads, in part, as follows:

Size and Weight of Vehicles and Load. - It shall be unlawful for any person to drive or move on any highway in this State any vehicle or vehicles of a size or weight except in accordance with the following provisions: . . . (b)(3) Subject to the limit upon the weight imposed upon the highway through any one axle as set forth herein, the total weight with load imposed upon the highway by all the axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distances between the first and last axle of the vehicle or combination of vehicles, measured longitudinally to the nearest foot as set forth in the following table: . . . distance in feet between first and last axles of vehicle or combination of vehicles . . . 43 and over . . . maximum load in pounds on all axles . . . 73,280.

I further charge you, members of the jury, that if you are reasonably satisfied from all of the evidence in this case that at the time and place complained of in the plaintiff's complaint the Mothershead Oil Company tanker was negligently being operated in violation of the above Code section and that such negligence on its part, if any, proximately contributed to the damages complained of by the plaintiff, then you may not return a verdict in favor of the plaintiff, Mothershead Oil Company, in this case.

*J. J. Madison*  
J. J. Madison  
Judge

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 15

I charge you, members of the jury, that if you are reasonably satisfied from all of the evidence in this case that the operator of the Mothershead tanker on the occasion complained of failed to operate that tanker as a reasonably prudent truck driver would have operated it under the same or similar circumstances and, further, that the manner in which said tanker was being operated by said driver on this occasion proximately contributed even in the slightest degree to the accident about which complaint is now made, then you may not return a verdict in favor of the plaintiff and against Complete Auto Transit, Inc.

*Given,*  
*Seifair J. Mableburn*  
*judge.*

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 16

I charge you, members of the jury, that if you are reasonably satisfied from all of the evidence in this case that on the occasion complained of in the plaintiff's complaint the driver of the plaintiff's tanker was guilty of negligence in and about the operation of the tanker on that occasion, which proximately contributed to the damages about which the plaintiff complains, then I further charge that you may not return a verdict in favor of the plaintiff and against Complete Auto Transit, Inc.

*Refused,  
J. J. Maslowski  
Judge*

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 17

The court charges the jury that under the law in Alabama, contributory negligence is a complete defense to a plaintiff's right of recovery for simple initial negligence, and if you are reasonably satisfied from the evidence in this case that on the occasion complained of in the complaint, the operator of the Mothershead tanker was guilty of negligence and that this negligence proximately contributed to the injuries and damages about which complaint is made by the plaintiff, then you may not return a verdict in favor of the plaintiff and against Complete Auto Transit, Inc.

*Refused*  
*J. Fairman Maslow*  
*Judge*

CHARGE NUMBER B

I charge you as a matter of law that if one drives a vehicle at a speed not exceeding the legal limits, that such is prima facie lawful, but in any case when such speed would be unsafe, it shall not be lawful, and I further charge you that any person driving a vehicle on a highway shall drive the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface, and width of the highway and any other conditions then existing, and I further charge you that if you ~~find~~ **ARE REASONABLY SATISFIED** from the evidence in this case that Irby Jacobson, at the time of the accident, operated Plaintiff's vehicle at a speed of less than 55 miles per hour and if you further ~~find~~ **ARE REASONABLY SATISFIED** from the evidence in this case that he was not then operating the same at a careful and prudent speed, having due regard to the traffic, surface, and width of the highway, and any other conditions then existing, then I charge you as a matter of law that such speed would be unlawful, and I further charge you that, having so determined, if you further ~~find~~ **ARE REASONABLY SATISFIED** that such unlawful operations proximately contributed to the Plaintiff's injuries, then you can- not find for the Plaintiff.

Refused  
Jeffrey J. Madsen  
Judge

Copy to Plaintiff's  
ATTORNEY  
JCOJ.



COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. \_\_\_\_\_

I charge you, members of the jury, that Title 36, S (1) (b), Code of Alabama 1940 (Recomp. 1958), as last amended, reads, in part, as follows:

- (B) No person shall operate a truck with a rated capacity of more than  $3/4$  ton at a rate of speed greater than 50 miles per hour at any time.

I further charge you that if you are reasonably satisfied from all of the evidence in this case that on the occasion complained of the Mothershead tanker was in violation of this statute in that the Mothershead tanker had a rated capacity of more than  $3/4$  of a ton and, further the driver of the Mothershead tanker was operating that vehicle at a speed greater than 50 miles per hour, then I charge you that that violation, if any, is negligence as a matter of law. I further charge you that if you are reasonably satisfied from the evidence in this case that that negligence, if any, proximately contributed to the accident and the plaintiff's damages, then you may not return a verdict in favor of the plaintiff and against the defendant.

*Refused*  
*Jeffrey J. Markham*  
*Judge*

Plaintiff's Requested Charge No. 1

The Court instructs the jury that if you find for the Plaintiff, you must determine the interest on Plaintiff's damages at the rate of 6 per cent per annum from December 6, 1971 to the date of the judgment, add the interest so calculated to Plaintiff's damages, and give Plaintiff judgment for the whole amount.

*Dixon,  
Jeffrey J. Madison  
Judge*

Plaintiff's Requested Charge No. 2

The Court charges the Jury that the burden of proof is on the Defendant, Complete Auto Transit, Inc., as to its defense of contributory negligence that the tractor-trailer vehicle owned by the Plaintiff, J. L. Mothershead, at the time and place complained of, was overweight in violation of Alabama Code, Title 36, Section 89(d), and that the violation of that statute was a proximate cause of the damages for which the Plaintiff complains.

*Refused*  
*J. L. Mothershead*  
*Judge*

Plaintiff's Requested Charge No. 3

The Court charges the Jury that before you can find that the Plaintiff, J. L. Mothershead, was contributorily negligent because at the time and place complained of his tractor-trailer vehicle was overweight in violation of Alabama Code, Title 36, Section 89(d), you must be reasonably satisfied from the evidence that the violation of that statute was a proximate cause of the damages for which he complains.

*J. L. Mothershead*  
*Judge*

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 4

I charge you, members of the jury, that you may not base your verdict in this case upon speculation, conjecture or surmise.

Sicut  
J. J. G. M. M. M.  
Judge

COMPLETE AUTO TRANSIT'S REQUESTED CHARGE NO. 5

I charge you, members of the jury, that you may not base your verdict in this case upon sympathy for any party or upon prejudice against any party.

Given,  
Jeffrey J. MacLisburn  
Judge.

Plaintiff's Requested Charge No. 4

The Court charges the Jury that before you can find the Plaintiff, J. L. Mothershead, guilty of contributory negligence, you must be reasonably satisfied from the evidence that the Plaintiff was guilty of negligence which proximately contributed to the damages complained of.

*Sincer,*  
*Seafair J. Mothershead*  
*Judge.*

Plaintiff's Requested Charge No. 5

The Court charges the Jury that the burden of proof as to the defense of contributory negligence is on the Defendant, Complete Auto Transit, Inc.

*James  
Joseph J. Mansbach  
Judge*