

Defendant's Charge No. 1

The Court charges you that the Plaintiff in this case has alleged that Tommy Moody was guilty of willful, wanton or intentional conduct. The burden is on the Plaintiff under these allegations of the Complaint to reasonably satisfy you by the evidence that Tommy Moody was guilty of conduct which amounted to more than negligence. Negligence is defined as that standard of care which a reasonably prudent person would use under the same or similar circumstances. A finding by you that Tommy Moody did not conduct himself as a reasonably prudent person would not be sufficient to allow you to return a verdict in favor of the Plaintiff. The burden is on the Plaintiff to reasonably satisfy you by the evidence that Tommy Moody was guilty of more than negligent conduct. The burden is on the Plaintiff to reasonably satisfy you by the evidence that Tommy Moody had knowledge and consciousness at the time of his acts made the basis of this suit that in operating his automobile that his actions in operating the automobile would probably, naturally or likely result in injury to LaJuana Sue Thornhill or someone similarly situated, and that Tommy Moody nevertheless continued to operate his automobile with reckless indifference to the consequences of injury to her and as a proximate consequence of Tommy Moody's actions LaJuana Sue Thornhill received the injuries which caused her death.

Given

Receipt

DEFENDANT'S CHARGE NO. 2

THE COURT CHARGES YOU THAT WANTONNESS AND NEGLIGENCE DENOTE ENTIRELY DIFFERENT LEGAL CONCEPTS AND THAT WANTONNESS CAN EXIST ONLY WHEN NEGLIGENCE IS ABSENT.

Refused

DEFENDANT'S CHARGE NO. 3

THE COURT CHARGES YOU THAT THE MERE FACT THAT AN ACCIDENT
OCCURRED WHILE LAJUANA SUE THORNHILL WAS RIDING IN AN
AUTOMOBILE DRIVEN BY THOMAS MOODY IN AND OF ITSELF WOULD
NOT ENTITLE THE PLAINTIFF TO RECOVER DAMAGES IN THIS LAWSUIT.

Given

DEFENDANT'S CHARGE NO. 4

THE COURT CHARGES YOU THAT IF AFTER CONSIDERING ALL THE EVIDENCE IN THIS CASE, YOUR MINDS ARE LEFT IN A STATE OF REASONABLE UNCERTAINTY AS TO WHETHER OR NOT THE PLAINTIFF IS ENTITLED TO RECOVER, THEN YOU CANNOT FIND YOUR VERDICT FOR THE PLAINTIFF.

Given

DEFENDANT'S CHARGE NO. 5

THE COURT CHARGES YOU THAT THE MERE FACT THAT THERE HAS BEEN AN AUTOMOBILE ACCIDENT DOES NOT IN AND OF ITSELF ENTITLE THE PLAINTIFF TO RECOVER. BEFORE THE PLAINTIFF CAN RECOVER THE PLAINTIFF MUST CARRY THE BURDEN OF PROVING TO THE REASONABLE SATISFACTION OF EACH AND EVERY ONE OF YOU THAT THOMAS MOODY WAS GUILTY OF WANTON MISCONDUCT. I FURTHER CHARGE YOU THAT BEFORE YOU CAN FIND THOMAS MOODY TO HAVE BEEN GUILTY OF WANTON MISCONDUCT THAT EACH AND EVERY ONE OF YOU MUST BE REASONABLY SATISFIED FROM THE EVIDENCE THAT HE CONSCIOUSLY AND INTENTIONALLY DID SOME ACT, OR OMITTED SOME KNOWN DUTY, WITH KNOWLEDGE OF EXISTING CONDITIONS AND WITH CONSCIOUSNESS THAT FROM THE DOING OF THAT ACT OR OMITTING THE KNOWN DUTY THAT INJURY AND DEATH WOULD LIKELY OR PROBABLY RESULT.

Given

DEFENDANT'S CHARGE NO. 6

THE COURT CHARGES YOU THAT IT IS ESSENTIAL, TO CONSTITUTE
WANTON CONDUCT, THAT THE ACT DONE OR OMITTED BY THOMAS
MOODY SHALL BE DONE OR OMITTED WITH A KNOWLEDGE AND CONSCIOUS-
NESS THAT INJURY WILL PROBABLY RESULT, OR WITH RECKLESS
INDIFFERENCE TO THE CONSEQUENCES.

~~Thomas~~
Refused

DEFENDANT'S CHARGE NO. 7

THE COURT CHARGES YOU THAT THE BURDEN IS ON THE PLAINTIFF TO
REASONABLY SATISFY YOU BY THE EVIDENCE THAT TOMMY MOODY
CONSCIOUSLY OR INTENTIONALLY CAUSED INJURY TO THE PLAINTIFF'S
DAUGHTER BEFORE THE PLAINTIFF IS ENTITLED TO RECOVER A
VERDICT.

Refused

DEFENDANT'S CHARGE NO. 9

THE COURT CHARGES YOU THAT BEFORE YOU CAN RETURN A VERDICT
IN FAVOR OF THE PLAINTIFF, THOMAS A. THORNHILL, EACH AND
EVERY ONE OF YOU MUST BE REASONABLY SATISFIED FROM THE
EVIDENCE THAT TOMMY MOODY ACTED WITH RECKLESS INDIFFERENCE
OF THE CONSEQUENCES AND CONSCIOUSLY DID SOME WRONGFUL ACT,
OR OMITTED SOME KNOWN DUTY, WHICH PROXIMATELY CAUSED INJURY
TO LAJUANA SUE THORNHILL.

~~_____~~
Refused

DEFENDANT'S CHARGE NO. 9

THE COURT CHARGES YOU THAT A PASSENGER IN AN AUTOMOBILE
CANNOT ABANDON THE EXERCISE OF HER OWN FACULTIES AND
ENTRUST HER SAFETY ENTIRELY TO THE DRIVER, REGARDLESS OF
THE IMMINENT DANGER OR THE VISIBLE LACK OF ORDINARY CARE
ON THE PART OF THE DRIVER TO AVOID HARM.

Refused

DEFENDANT'S CHARGE NO. 10

THE COURT CHARGES YOU THAT THE PLAINTIFF IS NOT ENTITLED TO RECOVER DAMAGES IN THIS CASE IF, AFTER A FAIR CONSIDERATION OF ALL THE EVIDENCE, ANY INDIVIDUAL JUROR IS REASONABLY SATISFIED BY ANY MATERIAL PART OF THE EVIDENCE THAT TOMMY MOODY IS NOT GUILTY OF WILLFUL AND WANTON MISCONDUCT WHICH PROXIMATELY CAUSED THE INJURY AND DEATH OF THE PLAINTIFF'S DAUGHTER.

Green

DEFENDANT'S CHARGE NO. 11

THE COURT CHARGES YOU THAT THE FOLLOWING IS A CORRECT
DEFINITION OF WANTONNESS WHICH CAN BE CONSIDERED BY YOU IN
YOUR DETERMINATION OF THIS CASE: WANTONNESS IS A CONSCIOUS
DOING OF SOME ACT, OR OMISSION OF SOME KNOWN DUTY WITH
KNOWLEDGE OF EXISTING CONDITIONS, AND CONSCIOUSNESS THAT
FROM THE DOING OF SUCH ACT OR OMISSION OF SUCH DUTY INJURY
WILL LIKELY OR PROBABLY RESULT.

Refused

DEFENDANT'S CHARGE NO. 12

THE COURT CHARGES YOU THAT IF AFTER CONSIDERING ALL THE
EVIDENCE YOUR MINDS ARE LEFT IN A STATE OF REASONABLE
UNCERTAINTY AS TO WHETHER TOMMY MOODY WAS GUILTY OF WANTON
MISCONDUCT, THEN YOUR VERDICT MUST BE FOR THE DEFENDANT.

Refused

DEFENDANT'S CHARGE NO. 13

THE COURT CHARGES YOU THAT BEFORE YOU CAN FIND A VERDICT FOR THE PLAINTIFF YOU MUST BE REASONABLY SATISFIED FROM THE EVIDENCE THAT THOMAS MOODY CONSCIOUSLY ACTED OR FAILED TO ACT UNDER SUCH CIRCUMSTANCES AS TO AMOUNT TO AN INTENTION ON THE PART OF THOMAS MOODY TO INJURE HIMSELF, OR THAT THOMAS MOODY COMPLETELY DISREGARDED HIS OWN SAFETY AS WELL AS THAT OF LAJUANA SUE THORNHILL.

Refused

DEFENDANT'S CHARGE NO. 14

THE COURT CHARGES YOU THAT A PERSON RIDING IN A MOTOR VEHICLE
DRIVEN BY ANOTHER, EVEN THOUGH NOT CHARGEABLE WITH THE
DRIVER'S NEGLIGENCE, IS NOT ABSOLVED FROM ALL PERSONAL CARE
FOR HER OWN SAFETY, BUT IS UNDER THE DUTY OF EXERCISING
REASONABLE ORDINARY CARE TO AVOID INJURY TO HERSELF.

Refused

DEFENDANT'S CHARGE NO. 15

THE COURT CHARGES YOU THAT THE FOLLOWING IS A CORRECT STATEMENT OF THE LAW APPLICABLE IN ALABAMA AND MAY BE USED BY YOU IN YOUR DELIBERATIONS: THE OWNER, OPERATOR OR PERSON RESPONSIBLE FOR THE OPERATION OF A MOTOR VEHICLE SHALL NOT BE LIABLE FOR LOSS OR DAMAGE ARISING FROM INJURIES TO A GUEST WHILE BEING TRANSPORTED WITHOUT PAYMENT THEREFOR IN OR UPON SAID MOTOR VEHICLE, RESULTING FROM THE OPERATION THEREOF, UNLESS SUCH INJURIES ARE CAUSED BY THE WILLFUL OR WANTON MISCONDUCT OF THE OPERATOR, OWNER OR PERSON RESPONSIBLE FOR THE OPERATION OF THE MOTOR VEHICLE.

~~Y. J. ...~~
Refused

DEFENDANT'S CHARGE NO. 16

THE COURT CHARGES YOU THAT IF YOU ARE REASONABLY SATISFIED BY THE EVIDENCE THAT LAJUANA SUE THORNHILL NEGLIGENTLY ABANDONED THE EXERCISE OF HER OWN FACULTIES AND ENTRUSTED ENTIRELY TO THE VIGILANCE AND CARE OF THE DRIVER OF THE AUTOMOBILE IN WHICH SHE WAS RIDING AS A PASSENGER, THEN YOU CANNOT FIND FOR THE PLAINTIFF.

Refused

DEFENDANT'S CHARGE NO. 17

THE COURT CHARGES YOU THAT THE BURDEN OF PROOF IS ON THE PLAINTIFF TO REASONABLY SATISFY YOU BY THE EVIDENCE AS TO THE PROOF OF EVERY MATERIAL ALLEGATION OF HIS COMPLAINT, IF HE HAS NOT DISCHARGED THIS BURDEN TO THE REASONABLE SATISFACTION OF EACH AND EVERY MEMBER OF THE JURY, THEN YOU CANNOT FIND FOR THE PLAINTIFF.

~~_____~~
Refused

DEFENDANT'S CHARGE NO. 18

THE COURT CHARGES YOU THAT A WILLFUL ACT IS AN INTENTIONAL
ACT. FOR TOMMY MOODY TO BE GUILTY OF INFLECTING A WILLFUL
INJURY YOU MUST BE SATISFIED FROM THE EVIDENCE THAT HE
INTENTIONALLY BROUGHT ABOUT INJURY TO THE PLAINTIFF'S
DAUGHTER.

~~_____~~
Refused

DEFENDANT'S CHARGE NO. 19

THE COURT CHARGES YOU THAT UNLESS YOU ARE REASONABLY
SATISFIED FROM THE EVIDENCE THAT TOMMY MOODY, WITH
RECKLESS INDIFFERENCE OF THE CONSEQUENCES, CONSCIOUSLY
DID SOME WRONGFUL ACT, OR OMITTED SOME KNOWN DUTY, WHICH
PROXIMATELY CAUSED INJURY TO LAJUANA SUE THORNHILL, THEN
YOUR VERDICT MUST BE FOR THE DEFENDANT.

~~_____~~
Reversed

DEFENDANT'S CHARGE NO. 20

THE COURT CHARGES YOU THAT A WILLFUL ACT IS AN INTENTIONAL ACT. FOR TOMMY MOODY TO BE GUILTY OF A WILLFUL INJURY YOU MUST BE REASONABLY SATISFIED FROM THE EVIDENCE THAT TOMMY MOODY INTENTIONALLY BROUGHT ABOUT INJURY TO LAJUANA SUE THORNHILL.

Refused

DEFENDANT'S CHARGE NO. 21

THE COURT CHARGES YOU THAT THE PLAINTIFF IS NOT ENTITLED TO RECOVER DAMAGES IN THIS CASE IF, AFTER A FAIR CONSIDERATION OF ALL THE EVIDENCE, ANY INDIVIDUAL JUROR IS REASONABLY SATISFIED BY ANY MATERIAL PART OF THE EVIDENCE THAT TOMMY MOODY IS NOT GUILTY OF WANTON MISCONDUCT WHICH PROXIMATELY CAUSED THE INJURY AND DEATH OF THE PLAINTIFF'S DAUGHTER.

Refused

DEFENDANT'S CHARGE NO. 22

THE COURT CHARGES YOU THAT BEFORE YOU CAN FIND TOMMY MOODY GUILTY OF WANTON MISCONDUCT, YOU MUST BE REASONABLY SATISFIED FROM THE EVIDENCE THAT TOMMY MOODY HAD KNOWLEDGE OF THE PERIL OF THE PLAINTIFF'S DAUGHTER; FURTHER THAT TOMMY MOODY HAD KNOWLEDGE THAT THE PROBABLE CONSEQUENCES OF HIS CONDUCT WOULD BE THE INJURY OF THE PLAINTIFF'S DAUGHTER, OR SOMEONE SIMILARLY SITUATED AND THAT WITH RECKLESS DISREGARD OF SUCH CONSEQUENCES TOMMY MOODY PURSUED THAT COURSE OF CONDUCT WHICH PROXIMATELY CAUSED THE INJURY AND DEATH OF THE PLAINTIFF'S DAUGHTER.

Refused

DEFENDANT'S CHARGE NO. 23

THE COURT CHARGES YOU THAT UNLESS YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE THAT THOMAS MOODY, WITH RECKLESS INDIFFERENCE OF THE CONSEQUENCES, CONSCIOUSLY DID SOME WRONGFUL ACT, OR OMITTED SOME KNOWN DUTY, WHICH PROXIMATELY CAUSED THE INJURY AND DEATH OF LAJUANA SUE THORNHILL, YOUR VERDICT MUST BE FOR THE DEFENDANT.

Refused

DEFENDANT'S CHARGE NO. 24

THE COURT CHARGES YOU THAT LAJUANA SUE THORNHILL, IN RIDING
IN AN AUTOMOBILE WITH THOMAS MOODY, WAS NOT THEREBY ABSOLVED
FROM ALL PERSONAL CARE FOR HER OWN SAFETY, BUT WAS UNDER THE
DUTY OF EXERCISING REASONABLE CARE TO AVOID INJURY TO HERSELF;
THAT IS, SHE WAS UNDER THE DUTY OF EXERCISING SUCH CARE AS
AN ORDINARY PRUDENT PERSON WOULD EXERCISE UNDER THE SAME
CIRCUMSTANCES.

Refused

DEFENDANT'S CHARGE NO. 26

THE COURT CHARGES YOU THAT UNLESS YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE THAT THOMAS MOODY, WITH RECKLESS INDIFFERENCE OF THE CONSEQUENCES, CONSCIOUSLY DID SOME WRONGFUL ACT, OR OMITTED SOME KNOWN DUTY, WHICH PROXIMATELY CAUSED THE INJURY AND DEATH OF LAJUANA SUE THORNHILL, YOUR VERDICT MUST BE FOR THE DEFENDANT UNDER COUNT TWO OF THE PLAINTIFF'S COMPLAINT.

Refused

DEFENDANT'S CHARGE NO. 27

THE COURT CHARGES YOU THAT THE BURDEN IS ON THE PLAINTIFF TO
REASONABLY SATISFY YOU BY THE EVIDENCE THAT TOMMY MOODY
CONSCIOUSLY OR INTENTIONALLY CAUSED INJURY TO THE PLAINTIFF'S
DAUGHTER BEFORE THE PLAINTIFF IS ENTITLED TO RECOVER A
VERDICT UNDER COUNT TWO OF HIS COMPLAINT.

Refused

DEFENDANT'S CHARGE NO. 25

THE COURT CHARGES YOU THAT THE DAMAGES SOUGHT BY THE PLAINTIFF IN COUNT TWO OF HIS COMPLAINT ARE PUNITIVE IN NATURE. PUNITIVE MEANS PUNISHMENT AND YOU MUST BE REASONABLY SATISFIED FROM THE EVIDENCE THAT TOMMY MOODY'S CONDUCT WAS SUCH AS DESERVES THE IMPOSITION OF PUNISHMENT BEFORE YOUR VERDICT CAN BE FOR THE PLAINTIFF UNDER COUNT TWO OF HIS COMPLAINT.

~~James~~
Revised

DEFENDANT'S CHARGE NO. 78

THE COURT CHARGES YOU THAT THE PLAINTIFF IS NOT ENTITLED TO RECOVER UNDER COUNT TWO OF HIS COMPLAINT IF, AFTER A FAIR CONSIDERATION OF ALL THE EVIDENCE, ANY INDIVIDUAL JUROR IS REASONABLY SATISFIED BY ANY MATERIAL PART OF THE EVIDENCE THAT TOMMY MOODY IS NOT GUILTY OF WANTON MISCONDUCT WHICH PROXIMATELY CAUSED THE INJURY AND DEATH OF THE PLAINTIFF'S DAUGHTER.

Refused

DEFENDANT'S CHARGE NO. 29

THE COURT CHARGES YOU THAT IF AFTER CONSIDERING ALL THE EVIDENCE YOUR MINDS ARE LEFT IN A STATE OF REASONABLE UNCERTAINTY AS TO WHETHER TOMMY MOODY WAS GUILTY OF WANTON MISCONDUCT, THEN YOUR VERDICT MUST BE FOR THE DEFENDANT UNDER COUNT TWO OF THE PLAINTIFF'S COMPLAINT.

Refused