

PLAINTIFF'S CHARGE # 1

I charge the jury that, if you are reasonably satisfied from the evidence that the Defendant, Robert Arnold Davison, failed to keep a proper lookout under the conditions existing at the time of the accident complained of and that his failure to keep such proper lookout was the cause, in fact, of the accident, this, at law, is negligence and you must find for the Plaintiff in such sum as is supported by evidence presented in this cause.

GIVEN \_\_\_\_\_

REFUSED ✓

J. Stanley Washburne  
Judge

PLAINTIFF'S CHARGE # 2

I charge the jury that, if you are reasonably satisfied from the evidence that the Defendant, Robert Arnold Davison, was guilty of negligence by being on the left side of the road instead of the right, and that by reason of this negligence the accident complained of occurred, then he would be responsible for the damages done to his car and to the car of the Plaintiff.

GIVEN ✓

REFUSED \_\_\_\_\_

J. J. Moore  
Judge

PLAINTIFF'S CHARGE # 3

I charge the jury that the law requires that a driver of a vehicle shall not drive to the left of the centerline of a highway in overtaking or passing another vehicle proceeding in the same direction unless such left half is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing in safety.

GIVEN         

REFUSED         

J. H. J. M. M. M.  
Judge

PLAINTIFF'S CHARGE # 4

I charge the jury that the law requires that drivers of vehicles proceeding in opposite directions shall pass each other to the right, each giving the other at least half of the main travel portion of the roadway.

GIVEN  \_\_\_\_\_

REFUSED  \_\_\_\_\_

J. J. Maskebur  
Judge

1.

I charge you, gentlemen of the jury, that the driver of an automobile operating the same at night has the duty of providing lights on his vehicle which, under normal atmospheric conditions on a level unlighted highway, will render objects visible that are located on the highway in front of said vehicle at a distance of at least 350 feet on high beam and at least 100 feet on low beam and I further charge you that the posted speed limit at the time and place complained of in this case was 50 miles per hour, however, 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 of any other conditions then existing and no person shall drive any vehicle upon any highway at such speed as to endanger the life, limb, or property of any person. If you are reasonably satisfied from the evidence in this case that the third party defendant, Mr. Davison, was violating the speed limit by driving his vehicle at a speed greater than was reasonable and proper for said time and place, then such violation would constitute negligence.

*Given*  
*Jeffrey G. Moskowitz*  
*Judge*

2.

I charge you, ladies and gentlemen of the jury, that any person driving a vehicle on the highways of this State 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 of any other conditions then existing, and no person shall drive any vehicle upon a highway at such speed as to endanger the life, limb or property of any person. I further charge you that if you are reasonably satisfied from the evidence in this case that the third-party defendant, Robert Arnold Davison, did not drive his automobile at said time and place in a careful and prudent manner and at a speed greater than was reasonable and proper having due regard to the conditions then existing, then his failure to so drive would constitute negligence.

*Given*  
*Jeffrey G. Moskowitz*  
*Judge*

I charge you, ladies and gentlemen of the jury, that whenever a driver of a vehicle approaches an on-coming vehicle within 500 feet, during a time in which he is required to use the lights of his vehicle, then such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the on-coming driver. In other words, the driver of an automobile at night should use his low beam whenever he approaches within 500 feet of an on-coming vehicle. I further charge you that if you are reasonably satisfied from all of the evidence in this case that the Plaintiff, Dempsey Hadley, failed to dim his lights at any point within 500 feet of the vehicle being driven by Robert Arnold Davison, then such failure would be negligence and if you are further reasonably satisfied from all of the evidence in this case that such negligence did exist and was the proximate cause of the accident or one of the causes proximately contributing to the accident, then you should not return a verdict in favor of the Plaintiff.

*J. J. Maskever*  
Judge

I charge you, ladies and gentlemen of the jury, that a motorist on the public highways of this state must exercise due care to anticipate the presence of others upon the highway and not to injure him after he is aware of his presence. I further charge you that if a motorist can not see clearly, he has no right to assume that his course is free of danger, but must anticipate that some hazard lies immediately beyond his range of vision. If you are reasonably satisfied from all of the evidence in this case that the driver of any of the vehicles involved in the collision giving rise to this suit failed to exercise such due care, then such failure would constitute negligence.

Judge  
Joseph G. Markham  
Judge

DEFENDANT'S CHARGE NO. 1

THE COURT CHARGES YOU THAT WHEN A DRIVER, WITHOUT ANY FAULT ON HIS PART, IS PLACED IN A POSITION OF EMINENT PERIL, THE LAW WILL NOT HOLD HIM GUILTY OF SUCH NEGLIGENCE AS WILL DEFEAT HIS RECOVERY IF HE DOES NOT SELECT THE VERY WISEST CHOICE AND AN HONEST MISTAKE OF JUDGMENT IN SUCH A SUDDEN EMERGENCY WILL NOT OF ITSELF CONSTITUTE NEGLIGENCE ALTHOUGH ANOTHER COURSE MIGHT HAVE BEEN BETTER AND SAFER.

*Given  
DeFair J. MacArthur  
Judge*



DEFENDANT'S CHARGE NO. 2

THE COURT CHARGES YOU THAT WHERE A PARTY IS SUDDENLY PLACED BY THE  
WRONG OF ANOTHER PARTY IN A POSITION OF EXTREME AND EMINENT PERIL,  
NECESSITATING HIS QUICK DECISION AND ACTION, HE WILL NOT BE HELD TO  
THE SAME CORRECTNESS OF JUDGMENT AND ACTION IF HE HAD TIME AND  
OPPORTUNITY TO FULLY CONSIDER THE SITUATION AND TO CHOOSE THE  
BEST MEANS OF ESCAPING THE PERIL.

*Deputy*  
*Jeffrey J. Masterson*  
*Judge*

DEFENDANT'S CHARGE NO: 3

THE COURT CHARGES YOU THAT A PERSON IS NOT CHARGEABLE WITH NEGLIGENCE, WHO, WHEN UNWARNED PERIL COMES ON HIM SUDDENLY AND HE ACTS CONTRARY TO THE BEST MEANS OF ESCAPING THE PERIL, FOR PERSONS IN PERIL ARE NOT REQUIRED TO EXERCISE ALL THE PRESENCE OF MIND IN CARE OF A PRUDENT CAREFUL MAN; THE LAW MAKES ALLOWANCES FOR THEM AND LEAVES THE CIRCUMSTANCES OF THEIR CONDUCT TO THE JURY.

*Given  
J. Fair J. Masoleburn  
Judge*

DEFENDANT'S CHARGE NUMBER 4

THE COURT CHARGES YOU THAT WHENEVER A DRIVER OF A VEHICLE  
APPROACHES AN ONCOMING VEHICLE WITHIN 500 FEET, SUCH DRIVER  
SHALL USE A DISTRIBUTION OF LIGHT OR COMPOSITE BEAM SO AIMED  
THAT THE GLARING RAYS ARE NOT PROJECTED INTO THE EYES OF THE  
ONCOMING DRIVER.

*Given*  
*Jeffrey J. Madison*  
*Judge*

DEFENDANT'S CHARGE NUMBER 5

THE COURT CHARGES YOU THAT WHENEVER A VEHICLE IS PARKED OR STOPPED UPON A ROADWAY OR SHOULDER ADJACENT THERETO WHETHER ATTENDED OR UNATTENDED DURING THE HOURS BETWEEN ONE-HALF HOUR AFTER SUNSET AND ONE-HALF HOUR BEFORE SUNRISE AND THERE IS NOT SUFFICIENT LIGHT TO REVEAL ANY PERSON OR OBJECT WITHIN A DISTANCE OF 500 FEET UPON SUCH HIGHWAY, SUCH VEHICLE SO PARKED OR STOPPED SHALL BE EQUIPPED WITH ONE OR MORE LAMPS WHICH SHALL EXHIBIT A WHITE OR AMBER LIGHT ON THE ROADWAY SIDE VISIBLE FROM A DISTANCE OF 500 FEET.

*Discontinue  
Defendant's motion  
Judge*

Defendant's Charge Number 06

The Court charges you that when a person is faced with a sudden and unexpected emergency, the applicable standard of care is that of an ordinary prudent man acting under same or simular circumstances, and when the driver of a motor vehicle suddenly finds himself rapidly approaching the rear or another vehicle which is obviously traveling at a much slower speed, that an emergency situation exists.

Refused,  
Debra J. Madeline  
Judge