

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities

Plaintiff's Jury Charge No. 1

The Court charges the jury that in civil cases such as this case, the burden of proof which is upon the plaintiff, Martha Faye Smith, is only to reasonably satisfy you from the evidence that she is entitled to recover from the Defendant.

*Refused*

SMITH VS. WALLER, ET AL.

PLAINTIFF'S CHARGE NO. 2

The Court charges the jury that as a general rule an electric company is liable for property damages or personal injuries or death arising from its failure to shut off the electric power or current where it had knowledge or notice, actual or constructive, of a defect or other condition rendering the continuing energizing of its wires perilous to others.

*Approved*

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities

Plaintiff's Charge No. 3

The Court charges the jury that it is the duty of an electric company such as the Defendant, Riviera Utilities, to exercise due care in operating its business commensurate with the risk of harm to persons or property and a failure of such company to exercise such care would constitute negligence.

A handwritten signature in cursive script, appearing to read "Riviera", is written diagonally across the page.

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities

Plaintiff's Charge No. 4

The Court charges the jury that the provisions of the National Electrical Safety Code were applicable to the operations of the Defendant, Riviera Utilities, as furnishing a standard of care, which it was required to follow in its operations at the time of the accident in question.

*Revised*

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities

Plaintiff's Charge No. 5

The Court charges the Jury that if you are reasonably satisfied from the evidence in this case that the Defendant Riviera Utilities was guilty of negligence, which negligence combined and concurred with the negligence of Charles Waller Advertising, Inc., to proximately cause the injuries and death of Riley Smith, the plaintiff's intestate in this case, then the Plaintiff Martha Faye Smith <sup>at adm</sup> has sustained the burden of proof of the allegations of her complaint and your verdict should be for the Plaintiff, Martha Faye Smith <sup>at adm</sup>, unless the Defendant has reasonably satisfied you of the truth of its first affirmative defense.

*Given*

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities

Plaintiff's Charge No. 5

The Court charges the Jury that if you are reasonably satisfied from the evidence in this case that the Defendant Riviera Utilities was guilty of negligence, which negligence combined and concurred with the negligence of Charles Waller Advertising, Inc., to proximately cause the injuries and death of Riley Smith, the plaintiff's intestate in this case, then the Plaintiff Martha Faye Smith <sup>as Administratrix</sup> has sustained the burden of proof of the allegations of her complaint and your verdict <sup>as Administratrix</sup> should be for the Plaintiff, Martha Faye Smith, unless the Defendant has reasonably satisfied you of the truth of its first affirmative defense.

*ok*

*Wm. Gordon Judge*

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities  
Plaintiff's Charge No. 6

The Court charges the Jury that where two or more distinct persons or companies are each guilty of negligence which combines and concurs to proximately cause injury or death to a third person, then and in that event the negligence of each negligent party is deemed the proximate cause of the injury and/or death of the third party and the third party is entitled to recover damages from both negligent parties.

OK  
Givoni  
C. Embrey  
Judge

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities  
Plaintiff's Charge No. 6

The Court charges the Jury that where two or more distinct persons or companies are each guilty of negligence which combines and concurs to proximately cause injury or death to a third person, then and in that event the negligence of each negligent party is deemed the proximate cause of the injury and/or death of the third party and the third party is entitled to recover damages from both negligent parties.

*Given*



Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities

Plaintiff's Charge No. 7

The Court charges the Jury that knowledge of an agent, servant or employee of a corporation, acquired while acting within the line and scope of his employment as such agent, servant or employee of a corporation, is knowledge of the corporation.

*Refused*

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities

Plaintiff's Charge No. 8

The Court charges the jury, that if you are reasonably  
satisfied from the evidence in this case that the <sup>Martha Faye Smith</sup> plaintiff/is  
entitled to recover from the defendant you may award such  
damages as will punish the defendant for causing the death of  
the Plaintiff's <sup>Interest</sup> husband, and in this regard you may consider  
the enormity of the wrong, and you may also consider the necessity  
of preventing similar wrongs in the future.

*W. Adams*

*Given*

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities

Plaintiff's Charge No. 8

The Court charges the jury, that if you are reasonably <sup>as</sup> satisfied from the evidence in this case that the <sup>Martha Faye Smith</sup> plaintiff/is entitled to recover from the defendant you may award such damages as will punish the defendant for causing the death of the Plaintiff's <sup>Intestate</sup> ~~husband~~, and in this regard you may consider the enormity of the wrong, and you may also consider the necessity of preventing similar wrongs in the future.

*Bejamin*

*W. J. ...*  
*... ..*  
*...*

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities

Plaintiff's Charge No. 9

The Court charges the jury, that if you are reasonably satisfied from the evidence in this case that the Plaintiff is entitled to recover from the Defendant, then you must assess damages in the amount as in your sound discretion will punish the defendant for wrongfully causing the death of plaintiff's ~~husband~~ and you may consider in arriving at the amount of damages to be awarded the plaintiff what amount of damages will deter this defendant and others similarly situated from the commission of wrongful acts resulting in death to others in the future.

Martha Faye Smith  
Administratrix

*Intestate*

*Wm Campbell*

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities

Plaintiff's Jury Charge No. 10

The Court charges the jury, that if you are reasonably satisfied from the evidence in this case that the Plaintiff, Martha Faye Smith, is entitled to recover of this Defendant that the punishment by way of damages which you should award is intended not only to punish the Defendant, but should also act as a deterrent to the Defendant and others similarly situated from committing similar wrongful acts which might result in the death of others in the future.

*as  
Admin-  
tratrix*

*ok*

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities

Plaintiff's Charge No. 9

The Court charges the jury, that if you are reasonably satisfied from the evidence in this case that the <sup>Martha Faye Smith</sup> Plaintiff <sup>is</sup> entitled to recover from the Defendant, then you must assess damages in the amount as in your sound discretion will punish the defendant for wrongfully causing the death of plaintiff's <sup>Intestate</sup> husband and you may consider in arriving at the amount of damages to be awarded the plaintiff what amount of damages will deter this defendant and others similarly situated from the commission of wrongful acts resulting in death to others in the future.

*Martha Faye Smith*

*Given*

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities

Plaintiff's Jury Charge No. 10

The Court charges the jury, that if you are reasonably satisfied from the evidence in this case that the Plaintiff, Martha Faye Smith, is entitled to recover of this Defendant that the punishment by way of damages which you should award is intended not only to punish the Defendant, but should also act as a deterrent to the Defendant and others similarly situated from committing similar wrongful acts which might result in the death of others in the future.

*Martha Faye Smith*

*Given*

Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities  
Plaintiff's Charge No. 11

The Court charges the Jury, that the statute under which this action is brought is punitive in its purpose, and it is designed to punish the person or corporation wrongfully causing the death of another, and also to stimulate diligence, to check violence, and thereby to give greater security to human life, and to prevent homicides.

*Wm. C. G. G. G.*



Martha Faye Smith, as Administratrix, etc. vs. Riviera Utilities  
Plaintiff's Charge No. 11

The Court charges the Jury, that the statute under which this action is brought is punitive in its purpose, and it is designed to punish the person or corporation wrongfully causing the death of another, and also to stimulate diligence, to check violence, and thereby to give greater security to human life, and to prevent homicides.

*Given*

Martha Faye Smith, as Administratrix, etc., vs. Riviera Utilities

Plaintiff's Jury Charge No. 12

The Court charges the jury, that if you are reasonably  
satisfied from the evidence in this case that the Plaintiff/<sup>Martha Faye Smith</sup>is  
entitled to recover from the Defendant, then you should award  
such damages as will punish the Defendant for taking the life  
of the Plaintiff's husband, and in this regard you may consider  
the enormity of the Defendants' wrong, and you should also  
consider what amount of damages should be awarded to serve  
notice on this Defendant and others similarly situated that they  
face serious economic penalties if their negligence causes the  
death of another human being.

*Refused*

Smith etc. v. Waller et al.  
Civil Action No. 12,000

Hess etc. v. Waller et al.  
Civil Action No. 12,001

DEFENDANT CHARGE NO. 1

The Court charges the jury that the plaintiff in this case assumes the burden of proving to the reasonable satisfaction of this jury, from the evidence in this case, the truth of the material allegations of at least one count of the plaintiff's complaint. If you are not so reasonably satisfied from the evidence in this case, then you could not return a verdict in favor of the plaintiff and against the defendant.

*W. J. ...*  
*Waller et al.*

Smith etc. v. Waller et al.  
Civil Action No. 12,000

Hess etc. v. Waller et al.  
Civil Action No. 12,001

DEFENDANT CHARGE NO. 2

The Court charges the jury that if you are reasonably satisfied from the evidence in this case that the death complained of was proximately caused by a defective appliance which was owned and controlled by Waller, and be further reasonably satisfied that Riviera Utilities did not own or control that appliance and that Riviera Utilities had no actual knowledge of the defect and the dangerous condition that existed, then you could not return a verdict in favor of the plaintiff and against the defendant.

*Hess  
County*

Smith etc. v. Waller et al.  
Civil Action No. 12,000

Hess etc. v. Waller et al.  
Civil Action No. 12,001

DEFENDANT CHARGE NO. 3

The Court charges the jury that a company which merely furnishes electricity for electrical appliances on private property, owned or controlled by the owner or occupant of the premises, then the company furnishing the electricity is not responsible for the condition of those appliances and not liable for injuries caused by the defective condition of those appliances, unless the company supplying the electricity has actual knowledge of the defective and dangerous condition and fails to exercise reasonable care to cut off the flow of the electricity. If you are reasonably satisfied that the death of the decedent in this case was caused by a defective electrical appliance, owned or controlled by someone other than the defendant Riviera Utilities, and be further reasonably satisfied that Riviera Utilities had no actual knowledge of the defective and dangerous condition of the appliances, then you could not return a verdict in favor of the plaintiff and against the defendant.

*Miriam County Judge*



Smith etc. v. Waller et al.  
Civil Action No. 12,000

Hess etc. v. Waller et al.  
Civil Action No. 12,001

DEFENDANT CHARGE NO. 5

The Court charges the jury that in order for the defendant to be liable in this case for negligence, the plaintiff assumes the burden of proving to the reasonable satisfaction of this jury that the defendant Riviera Utilities had actual knowledge of the defective and dangerous condition of the appliance which caused the decedent's death, and that the defendant Riviera Utilities then negligently failed to exercise reasonable care to cut the flow of electricity from the dangerous and defective appliance after obtaining that actual knowledge. In determining whether or not Riviera Utilities had actual knowledge of any dangerous or defective appliance which caused the decedent's death, you are not entitled to resort to speculation, conjecture or surmise. If you find that you must resort to speculation, conjecture or surmise in determining whether or not Riviera Utilities had actual knowledge of the dangerous and defective condition of the appliances, then the plaintiff has failed to meet the burden imposed by law and you could not return a verdict in favor of the plaintiff and against the defendant.

*William E. Carter, Jr.*

Smith etc. v. Waller et al.  
Civil Action No. 12,000

Hess etc. v. Waller et al.  
Civil Action No. 12,001

DEFENDANT CHARGE NO. 6

The Court charges the jury that in your deliberations in this case, in determining whether or not the plaintiff has proven to your reasonable satisfaction the material allegations of the plaintiff's complaint, you are not entitled to resort to speculation, conjecture or surmise. You must be reasonably satisfied from the evidence in the case, and if you find that you must resort to speculation, conjecture or surmise, then the plaintiff has failed to meet the burden of proof imposed by law and you could not return a verdict in favor of the plaintiff and against the defendant.

*Wm. G. Carter*  
*Judge*