

PLAINTIFF'S REQUESTED CHARGE NO. 1

The Court charges the jury that a motorist operating a motor vehicle on a public highway in the State of Alabama is under a duty to exercise due care to anticipate the presence of others on the highway so as not to inflict injury or death upon another, and such motorist would be guilty of negligence if he fails to exercise reasonable care to discover a person in the highway whom he could have discovered in time to avoid inflicting injury or death upon such person.

Order granted
W. H. Hay

PLAINTIFF'S REQUESTED CHARGE NO. 2

Ladies and Gentlemen of the jury I charge you that the Code of Alabama, Title 36 §42(a) and (b) reads as follows:

§42. Requirements as to head lamps and auxiliary driving lamps. -- (a) Visibility distance and mounted height of lamps. (1) Whenever requirement is hereinafter declared as to the distance from which certain lamps or devices shall be visible, said provisions shall apply during the times stated in section 40 of this chapter in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.

(b) Muliple-beam road-lighting equipment. Except as hereinafter provided, the head lamps or the auxiliary passing lamp or combination thereof on motor vehicles other than motorcycles or motor driven cycles shall be so arranged that the driver may select at will between distributions of light projected to different elevations and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:

(1) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading.

(2) There shall be a lowermost distribution of light, or composite beam so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

Refused
W. H. Hays

PLAINTIFF'S REQUESTED CHARGE NO. 4

Ladies and Gentlemen of the jury I charge you that the Code of Alabama, Title 36 §42(c) reads as follows:

(c) Use of multiple-beam road-lighting equipment.

(1) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in section 40(a), the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(2) 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...

(3) Whenever the driver of a vehicle follows another within 200 feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in paragraph (1) of section 42(b).

The Court further charges the jury that a violation of said section of the Code of Alabama is negligence as a matter of law and if you are reasonably satisfied from the evidence that, on the occasion mentioned in Plaintiff's complaint, the defendant violated said section of the Code of Alabama and that such violation proximately caused the death of Grady Brashier then you should return a ver-

PLAINTIFF'S REQUESTED CHARGE NO. 4 CONTINUED...

dict for the Plaintiff and against the defendant, provided, however, that Grady Brashier was not guilty of contributory negligence.

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W. H. Hay

PLAINTIFF'S REQUESTED CHARGE NO. 3

Ladies and Gentlemen of the jury I charge you that the Code of Alabama, Title 36 §42(c) reads as follows:

(c) Use of multiple-beam road-lighting equipment.

(1) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in section 40(a), the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

(2) 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...

(3) Whenever the driver of a vehicle follows another within 200 feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in paragraph (1) of section 42(b).

I further charge you that if you find from the evidence in this case that the defendant, on the occasion complained of, did not fall within either of the enumerated exceptions, and if you further find that the defendant failed to use a distribution of light directed high enough and of sufficient intensity to reveal persons at a safe distance in advance of his vehicle, then the

PLAINTIFF'S REQUESTED CHARGE NO. 3 CONTINUED...

defendant was negligent as a matter of law; and if you are reasonably satisfied from the evidence that such negligence proximately caused the death of Grady Brashier, then you should return a verdict for the Plaintiff and against the defendant, provided, however, that Grady Brashier was not guilty of contributory negligence.

*Given
W. H. Hay*

PLAINTIFF'S REQUESTED CHARGE NO. 5

The Court charges the jury that the driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

Referred
W. K. Hays

PLAINTIFF'S REQUESTED CHARGE NO. 6

The Court charges the jury that it was the duty of the Defendant in this case to keep a continuous lookout for other persons including Grady Brashier during the time he was operating his vehicle on a public street and a failure to keep such lookout, if you are reasonably satisfied from the evidence that there was such a failure, constitutes negligence on the part of the Defendant.

Given
W. L. Hay

PLAINTIFF'S REQUESTED CHARGE NO. 7

The Court charges the jury 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 to 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.

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W. E. Hay

PLAINTIFF'S REQUESTED CHARGE NO. 8

The Court charges the jury that a motorist is chargeable with knowledge of what prudent and vigilant drivers would have seen, and is negligent if he fails to discover a person which he could, in the exercise of reasonable care, have discovered in time to avoid injury.

The Court further charges the jury that if the defendant at the time and place described in the complaint failed to discover Grady Brashier, whom he could in the exercise of reasonable care have discovered in time to avoid injury, the defendant was negligent.

Given
W. H. Hay

PLAINTIFF'S REQUESTED CHARGE NO. 9

The Court charges the jury that a motorist operating a vehicle on a public highway in Alabama is chargeable with knowledge of what a prudent and vigilant motor vehicle operator would have seen and is negligent if he fails to exercise reasonable care to discover a person in time to avoid inflicting injury or death.

Given
W. H. Hay

DEFENDANT, DONALD EARL COOPER'S REQUESTED CHARGE NUMBERED 1

The Court charges the jury that you cannot base a verdict against the Defendant, Donald Earl Cooper, on evidence which rests purely in speculation, conjecture or surmise.

*Given
W. H. Hay*

DEFENDANT, DONALD EARL COOPER'S, REQUESTED CHARGE NUMBERED 2

The Court charges the jury that if the Plaintiff has failed to establish to a reasonable satisfaction by a preponderance of the evidence in this case, each and every material allegation of her complaint against the Defendant, Donald Earl Cooper, then your verdict must be for the Defendant, Donald Earl Cooper.

Given
W. L. Hay

DEFENDANT, DONALD EARL COOPER'S, REQUESTED CHARGE NUMBERED 3

The Court charges the jury that you are not entitled to indulge in speculation or conjecture or surmise, and if it becomes necessary for you to indulge in speculation or conjecture or surmise to determine the proximate cause of the death of the Plaintiff's intestate, then the Plaintiff has failed to meet the burden of proof and you may not award the Plaintiff any recovery.

Given
W. L. Hay

DEFENDANT, DONALD EARL COOPER'S REQUESTED CHARGE NUMBERED 5

The Court charges the jury that you may not return a verdict
in favor of the Plaintiff in this cause based upon sympathy.

W. H. Hays

DEFENDANT, DONALD EARL COOPER'S, REQUESTED CHARGE NUMBERED 4

The Court charges the jury with regard to the first cause of action of the Plaintiff which charges the Defendant, Donald Earl Cooper, with negligence, that if you are reasonably satisfied from the evidence in this cause that on the occasion complained of in Plaintiff's first cause of action, that the Plaintiff's intestate was, himself, guilty of negligence, which proximately contributed to his death, in that at said time and place, he failed to exercise reasonable care for his own safety, then I charge you may not return a verdict in favor of the Plaintiff and against the Defendant, Donald Earl Cooper, under the Plaintiff's first cause of action.

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W. H. H. H.

DEFENDANT, DONALD EARL COOPER'S, REQUESTED CHARGE NUMBERED

6

The Court charges the jury that a vehicle in accordance with the rules of the road includes a ridden animal.

Approved
W. H. Hay

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