

Plaintiff's Requested Charge No. 2

The Court charges the jury that if you are reasonably satisfied from the evidence that Chris Stacey Nelson drove his vehicle to the left side of the center line of Alabama Highway 59, in overtaking and passing another vehicle proceeding in the same direction and if you are further reasonably satisfied that the left side of the highway was not clearly visible and was not free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety, then the Court charges you that such conduct on behalf of Chris Stacey Nelson is negligence as a matter of law.

~~Circuit~~/Refused

Jeffrey J. Mathison  
Judge

Plaintiff's Requested Charge No. 15

The Court instructs the jury that damages in this case are solely by way of punishment, and the jury has the right to take into consideration all the facts and circumstances surrounding the accident, the speed of the automobile that Defendant was driving, the speed of the automobile in which the Plaintiff's intestate was a passenger, the conduct of the drivers of the automobiles, on the occasion complained of in determining the amount of damages to assess against the Defendant Chris Stacey Nelson in the event a verdict is returned against the Defendant.

~~Given~~/Refused

J. J. Madburn  
judge

Plaintiff's Requested Charge No. 6

The Court instructs the jury that if you should be reasonably satisfied from the evidence that damages should be awarded in this case under the wrongful death statute of the State of Alabama, for the purpose of punishing the Defendant for some wrongdoing committed in connection with the death of Carrie Louise Sutton, then and in that event, the Court further charges you that such damages and the amount thereof should be measured by and should be in proportion to the gravity and nature of the Defendant's wrong, and are not to be measured by the value of Carrie Louise Sutton's life.

~~Refused~~  
~~Refused~~

J. Fair J. Maddox  
Judge.

Plaintiff's Requested Charge No. 11

The Court instructs the jury that the Alabama Wrongful Death Statute under which this action is brought is punitive in its purpose, in order to stimulate diligence and to check violence, and in order thereby to give greater security to human life.

~~Refused~~/Refused

Delbert G. Maddox  
Judge

Plaintiff's Requested Charge No. 7

The Court charges the jury that if the Defendant committed several acts of simple negligence the cumulative effect of such maybe considered in determining whether the Defendant was guilty of wanton negligence.

~~Refused~~/Refused

Joseph J. Malibier  
Judge

Plaintiff's Requested Charge No. 12

The Court instructs the jury that in order for a jury to assess punitive damages, it is not necessary that the injury shall be intentional.

~~given/Refused~~  
*Refused*

J. Blair G. Marblestone  
Judge

Plaintiff's Requested Charge No. 13

The Court instructs the jury that the damages in this case are by way of punishment vested upon the Defendant on account of his act or acts at the time of the accident complained of.

~~Given~~/Refused

Julian J. Madhukar  
Judge.

Plaintiff's Requested Charge No. 14

The Court instructs the jury that the Plaintiff in this case has filed suit under what is known as "the wrongful death statute of the State of Alabama," which permits the bringing of the action for the alleged wrongful death or the omission causing the death of a person. I further charge you that in actions of this kind, the only damages which are recoverable are damages which, in the discretion of the jury, would serve as a punishment to the person who wrongfully and proximately caused the death of the Plaintiff's intestate, Carrie Louise Sutton.

~~Given~~/Refused

Jeffrey A. Maske



DEFENDANT'S REQUESTED CHARGE NUMBER

1

The Court charges the jury that if you believe from the evidence that the driver of Defendant's automobile did what an ordinarily prudent man would have done under similar circumstances, you cannot find for the Plaintiff.

Given  \_\_\_\_\_

Refused  \_\_\_\_\_

Jeffrey J. Madole  
Judge

DEFENDANT'S REQUESTED CHARGE NUMBER

2

The Court charges the jury that damages under the Wrongful Death Statute are punitive in nature -- they are not designed to compensate the Plaintiff, the idea being that the damages are to be awarded the Plaintiff in a suit of this kind, and meted out against the Defendant as a punishment and as a deterrent, not only to the parties in litigation here, but to everyone to refrain from any conduct of a similar nature. So the basis of the damages in this case should be commensurate with the enormity of the wrongdoing.

*Jeffrey J. Masler*  
*Judge*

Given X

~~Refused~~



DEFENDANT'S REQUESTED CHARGE NUMBER

4

The Court charges the jury that the imposition of damages in this case would be by way of fine against Defendant, and if the jury believe from the evidence that the circumstances surrounding the accident do not warrant the imposition of a fine, then the jury cannot, under the law and the evidence, impose a fine by awarding damages to the Plaintiff.

~~Given~~

Refused

X

Jefair G. Masleburn  
Judge

DEFENDANT'S REQUESTED CHARGE NUMBER 5

The Court charges the jury that if, after a consideration of all the evidence, you should determine to award the Plaintiff damages, in fixing the amount, you cannot consider the pecuniary value of the life of the deceased, but can only award damages by way of punishment of the Defendant.

~~Given~~

Refused X

Jeffrey J. Middleberry  
Judge

DEFENDANT'S REQUESTED CHARGE NUMBER 6

The Court charges the jury that upon the trial of any civil action arising out of acts alleged to have been committed by any person while driving a vehicle while under the influence of intoxicating liquor, the amount of alcohol in the person's blood at the time of the chemical test authorized by the law as shown by chemical analysis of the person's blood, urine or breath shall be admissible as evidence and if there was at that time 0.05 percent or less by weight of alcohol in the person's blood it shall be presumed that the person was not under the influence of intoxicating liquor.

Given X

~~Refused~~  
Jeffrey J. Masterson  
Judge

DEFENDANT'S REQUESTED CHARGE NUMBER 7

The Court charges the jury that if Mrs. Sutton came to her death by reason of a mere accident the Plaintiff cannot recover.

Given ✓

~~Refused~~

*J. J. Madhavan*  
*Judge*

DEFENDANT'S REQUESTED CHARGE NUMBER 12

The Court charges the jury that wanton misconduct is the conscious doing of some act or omission of some duty under knowledge of existing conditions and consciousness that from the doing of such act or omission of such duty injury will likely or probably result. Before a party can be said to be guilty of wanton misconduct it must be shown that with reckless indifference to the consequences he consciously and intentionally did some wrongful act or omitted some known duty which produced the injury.

Given ✓

~~Refused~~  
Joseph J. Madhavan  
Judge



Plaintiff's Requested Charge No. 1

The Court instructs the jury that the passing or overtaking on the left side of the centerline of a highway of another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be made in safety, is negligence as a matter of law.

Given/~~Respectfully~~

J. Fair J. Wadsworth  
Judge

Plaintiff's Requested Charge No. 3

The Court charges the jury that if, under the evidence, they are reasonably satisfied that Chris Stacey Nelson was guilty of negligence as charged in the complaint, and as a proximate consequence of such negligence, Carrie Louise Sutton was injured and as a proximate consequence of those injuries, she died, then it is your duty to return a verdict in favor of the Plaintiff under Count One of the Complaint.

Given/~~Revised~~

Jeffrey J. Mallick  
Judge

Plaintiff's Requested Charge No. 4

The Court instructs the jury that the burden of proof is upon the Plaintiff to show the proximate cause of Carrie Louise Sutton's injuries and death was the direct result of the negligence or wantonness of the Defendant Chris Stacey Nelson. If you are so reasonably satisfied from all of the evidence, then your verdict must be for the Plaintiff under Count One of the Complaint.

Given/~~Refused~~

J. G. Madeline  
Judge.

Plaintiff's Requested Charge No. 5

The Court instructs the jury that if you are reasonably satisfied from the evidence that on the occasion complained of the Defendant, while operating the automobile on a public highway was conscious of his conduct, and conscious from his knowledge of existing conditions that injury would likely or probably result from his conduct, and that with reckless indifference to the consequences he committed some wrongful act or omitted some known duty which proximately caused the alleged injuries to the Plaintiff's intestate, then you can find for the Plaintiff under Count Two of the Complaint.

Given/~~Revised~~

Walter J. Madlison  
Judge

Plaintiff's Requested Charge No. 8

The Court instructs the jury that in order for one to be guilty of wanton conduct, the party doing the act or failing to act must be conscious of his conduct, and, without having the intent to injure, is conscious from his knowledge of existing conditions and circumstances that injury will likely or probably result from his conduct, and, with a reckless disregard of consequences, does some act or omits some known duty that results in injury. The Court further instructs the jury that if you are reasonably satisfied with the evidence in this case, that Chris Stacey Nelson attempted to pass an automobile on Alabama Highway 59, and was conscious at that moment from his knowledge of existing conditions and circumstances, that injury would likely or probably result from his conduct and with a reckless disregard of the consequences, nevertheless passed the automobile and as a proximate result thereof, his automobile collided with the automobile in which Carrie Louise Sutton was a passenger, then you may find him guilty under Count Two of the Complaint, and award punitive damages in the amount determined by you as charged to you by the Court.

Given/~~Refused~~

Judith J. Madlock  
Judge

Plaintiff's Requested Charge No. 9

The Court charges the jury that if you are reasonably satisfied from the evidence that the Defendant was conscious of his conduct and conscious from his knowledge of existing conditions that injury would likely or probably result from his conduct on the occasion complained of and that with reckless indifference to the consequences, he consciously and intentionally did some wrongful act or omitted some duty which caused the accident complained of and if you are further reasonably satisfied that Carrie Louise Sutton died as a proximate result of injuries received in the accident, then the Court instructs the jury that you may find the Defendant guilty under Count Two of the Complaint, charging wantonness.

Given/~~Refused~~

Jeffery J. Mable  
Judge.

Plaintiff's Requested Charge No. 60

The Court instructs the jury that in the assessment of punitive damages you are given a discretion in determining the amount of the damages, and this discretion is, however, not an unbridled or arbitrary one, but a legal, sound and honest discretion. In arriving at the amount of damages that should be assessed, due regard should be had to the enormity or not of the wrong, and to the necessity of preventing similar wrongs. In short, the punishment, by way of damages, is intended not alone to punish the wrong-doer, but as a deterrent to others similarly minded.

Given/~~Refused~~

J. Fair J. Madlison  
Judge

Plaintiff's Requested Charge No. 16

The Court charges the jury that if you are reasonably satisfied from the evidence in this case that the Defendant Chris Stacey Nelson is liable under any one of the counts of the Complaint submitted to you, and that the Plaintiff is entitled to recover, then the jury, in arriving at the amount of your verdict, should consider what is necessary to punish Chris Stacey Nelson as a retribution for the wrong and a deterrent of its repetition.

~~Given/Refused~~  
Refused

Judith A. Maplebaum  
Judge