

DEFENDANTS' CHARGE NO. 2

THE COURT CHARGES YOU THAT THERE IS NO PRESUMPTION OF NEGLIGENCE ON THE DEFENDANTS IN THIS CASE AND THE BURDEN IS ON THE PLAINTIFF TO REASONABLY SATISFY YOU BY THE EVIDENCE THAT THE DEFENDANTS WERE NEGLIGENT AT THE TIME, PLACE AND MANNER AS COMPLAINED OF IN THE PLAINTIFF'S COMPLAINT, AND THE PLAINTIFF MUST FURTHER REASONABLY SATISFY YOU THAT THE DEFENDANTS' NEGLIGENCE, IF ANY, PROXIMATELY CAUSED THE DAMAGE AS SET OUT IN SUCH COMPLAINT.

*Respectfully,
The Honorable Judge*

DEFENDANTS' CHARGE NO. 3

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

*Referred
Walter J. Williams
Judge*

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DEFENDANTS' CHARGE NO. 7

I CHARGE YOU, MEMBERS OF THE JURY, THAT A LOWER RIPARIAN OWNER, THAT IS, AN OWNER OF LAND BOUNDED GENERALLY UPON A STREAM OF WATER, CANNOT RECOVER IN ALABAMA FOR THE OVERFLOW WHICH WAS CAUSED BY AN EXCESSIVE RAINFALL.

Referenced by Writter & Judge

DEFENDANTS' CHARGE NO. 8

I CHARGE YOU, MEMBERS OF THE JURY, THAT IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE THAT IT WAS AN EXCESSIVE RAINFALL THAT CAUSED THE PLAINTIFF'S DAMAGES AND THAT SUCH RAINFALL WAS SO UNPRECEDENTED AS TO BE DEEMED AN "ACT OF GOD", THEN YOU MUST RETURN YOUR VERDICT IN THIS CASE FOR THE DEFENDANTS.

*Refused
Walter J
Judge*

*Refused
Walter J
Judge*

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DEFENDANTS' CHARGE NO. 21

I CHARGE YOU, MEMBERS OF THE JURY, THAT IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE THAT THE RETENTION OF WATER BY THE DAM CONSTRUCTED UPON THE PROPERTY OF THE STANLEYS WAS DONE IN A REASONABLE MANNER IN ORDER THAT THE STANLEYS WOULD HAVE ACCESS TO THEIR HOME, THEN I CHARGE YOU, MEMBERS OF THE JURY, THAT YOUR VERDICT MUST BE FOR THE DEFENDANTS.

Reverend J. William J. Fudge

DEFENDANTS' CHARGE NO. 29

THE COURT INSTRUCTS THE JURY THAT THE PLAINTIFF, JACK E. BRADFORD, IS NOT ENTITLED TO RECOVER SOLELY BECAUSE THERE WAS AN EXCESSIVE AMOUNT OF WATER FLOWING UPON HIS PROPERTY. THE PLAINTIFF CLAIMING NEGLIGENCE HAS THE BURDEN OF PROVING TO YOUR REASONABLE SATISFACTION BY THE EVIDENCE HERE PRESENTED THAT THE DEFENDANTS WERE NEGLIGENT AS ALLEGED IN THE COMPLAINT AND THAT SUCH NEGLIGENCE WAS A PROXIMATE CAUSE OF THE DAMAGES CLAIMED BY THE PLAINTIFF.

Reuben J. Walters, Jr. Judge

DEFENDANTS' CHARGE NO. 32

I CHARGE YOU, MEMBERS OF THE JURY, THAT IF ANY ONE OF YOUR NUMBER IS NOT REASONABLY SATISFIED BY THE EVIDENCE THAT JACK BRADFORD IS ENTITLED TO RECOVER, YOU CANNOT FIND A VERDICT FOR JACK BRADFORD.

Robert J. Walters, Jr. Judge

DEFENDANTS' CHARGE NO. 33

I CHARGE YOU THAT IF AFTER A FAIR CONSIDERATION OF ALL THE EVIDENCE, YOUR MIND IS LEFT IN A STATE OF CONFUSION AS TO WHETHER OR NOT PLAINTIFF IS ENTITLED TO RECOVER FROM THE DEFENDANTS, YOU CANNOT FIND FOR THE PLAINTIFF, AGAINST THE DEFENDANTS, FRANCES STANLEY AND SAM S. STANLEY.

Released by the Court Judge

DEFENDANTS' CHARGE NO.

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IF THE JURY IS REASONABLY SATISFIED THAT A WITNESS HAS
WILLFULLY TESTIFIED FALSELY ABOUT A MATERIAL FACT, THEN
THE JURY MIGHT, AT ITS DISCRETION, DISREGARD SUCH
WITNESS' TESTIMONY IN ITS ENTIRETY.

Rebecca M. Hutton, Judge

DEFENDANTS' CHARGE NO. 5

I CHARGE YOU, MEMBERS OF THE JURY, THAT A RIPARIAN PROPRIETOR,
THAT IS AN OWNER OF LAND, BOUNDED GENERALLY UPON A STREAM OF WATER,
HAS THE RIGHT TO DAM A NATURAL STREAM FOR RIGHTFUL PURPOSES.

*Henry J. Walters, Jr.
Judge*

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DEFENDANTS' CHARGE NO. 6

I CHARGE YOU, MEMBERS OF THE JURY, THAT THE DEFENDANTS, SAM STANLEY AND FRANCES STANLEY, AS RIPARIAN PROPRIETORS, HAD THE RIGHT TO DAM THE STREAM FOR THE RIGHTFUL PURPOSE OF GAINING ACCESS TO THEIR HOME VIA A DRIVEWAY, *if said driveway was constructed in a reasonable and prudent manner*

Witness
Wm J. Watters
Judge

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DEFENDANTS' CHARGE NO. 9

I CHARGE YOU, MEMBERS OF THE JURY, THAT A LOWER RIPARIAN OWNER, THAT IS, AN OWNER OF LAND BOUNDED GENERALLY UPON A STREAM OF WATER, CANNOT RECOVER IN ALABAMA FOR AN OVERFLOW WHICH WAS CAUSED BY EXCESSIVE RAINFALL, WHEN IT WAS APPARENT FROM THE PROPERTY DAMAGE IN THE AREA THAT THE DAMAGE WOULD HAVE BEEN CAUSED REGARDLESS OF THE DAM'S EXISTENCE.

Henry Walter Judge



DEFENDANT'S CHARGE NO. 10

I CHARGE YOU, MEMBERS OF THE JURY, THAT IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE THAT THE EXCESSIVE RAINFALL WAS AN "ACT OF GOD" WHICH CAUSED THE DAMAGES ABOUT WHICH JACK E. BRADFORD COMPLAINS, THEN YOUR VERDICT MUST BE FOR THE DEFENDANTS. *etc*

*David
W. Witter
Jury*

DEFENDANT'S CHARGE NO. 11

I CHARGE YOU, MEMBERS OF THE JURY, THAT IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE THAT THE WATERS WHICH GENERALLY FLOWED OVER THE PLAINTIFF'S LAND WERE WATERS FROM A CREEK AND THAT THE OVERFLOW WAS DUE ENTIRELY TO NATURAL CAUSES, THAT IS THE FLOODING OF THE CREEK BY EXTRAORDINARILY HEAVY RAINS, CAUSING ITS WATERS TO RUN ABOVE ITS CHANNEL AND TO OVERRUN ITS BANKS UPON THE PLAINTIFF'S PROPERTY, THEN I CHARGE YOU FURTHER, MEMBERS OF THE JURY, THAT YOUR VERDICT MUST BE FOR THE DEFENDANTS IN THIS CASE.

Henry J. Walters
Judge

DEFENDANTS' CHARGE NO. 12

I CHARGE YOU, MEMBERS OF THE JURY, THAT UNDER THE LAWS OF THE STATE OF ALABAMA AS PERTAINING TO LANDS SITUATED OUTSIDE A MUNICIPALITY, OUR DECISIONS HAVE ADOPTED THE CIVIL LAW RULE, THAT THE INFERIOR OR LOWER SURFACE IS DOOMED BY NATURE TO BEAR A SERVITUDE TO THE SUPERIOR IN THAT IT MUST RECEIVE THE WATER THAT FALLS ON AND FLOWS FROM THE HIGHER LAND.

Henry J. Walters, Judge (1)

DEFENDANTS' CHARGE NO. 15

I CHARGE YOU, MEMBERS OF THE JURY, THAT IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE PRESENTED IN THIS CASE THAT THE PLAINTIFF ASSUMED THE RISK OF INJURY, THEN YOUR VERDICT MUST BE FOR THE DEFENDANTS.

Henry J. Walters, Jr.
Judge

DEFENDANTS' CHARGE NO. 20

I CHARGE YOU, MEMBERS OF THE JURY, THAT IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE THAT THE DEFENDANTS ACTED AS ORDINARY PRUDENT PERSONS IN THE CONSTRUCTION AND MAINTAINENCE OF THE DAM, THEN YOUR VERDICT SHOULD BE FOR THE DEFENDANTS.

*Eric
Ry Wiltens
July*

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DEFENDANTS' CHARGE NO. 22

I CHARGE YOU, MEMBERS OF THE JURY, THAT IN NO CASE CAN
NEGLIGENCE BE ASSUMED FROM THE MERE FACT OF DAMAGES, AND
THE BURDEN OF PROVING THE NEGLIGENCE ALLEGED IN THE
COMPLAINT RESTS UPON THE PLAINTIFF.

*Living
Walter D. Judge*

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DEFENDANTS' CHARGE NO. 23

THE COURT CHARGES YOU THAT WITH RESPECT TO THE PLAINTIFF'S COMPLAINT THAT THE BURDEN REMAINS ON THE PLAINTIFF NOT ONLY TO REASONABLY SATISFY YOU BY THE EVIDENCE THAT THE PLAINTIFF'S DAMAGES WERE SUSTAINED AS A PROXIMATE RESULT OF THE DEFENDANTS' NEGLIGENCE AS ALLEGED, BUT ALSO TO FURTHER REASONABLY SATISFY YOU BY THE EVIDENCE OF THE EXTENT OF HIS ALLEGED DAMAGES AS REFERRED TO IN HIS COMPLAINT; YOU ARE INSTRUCTED THAT THE PLAINTIFF IS NOT ENTITLED TO RECOVER FOR ANYTHING MORE THAN SUCH SUM OF MONEY THAT WOULD PLACE THE PLAINTIFF IN THAT POSITION HE WOULD HAVE BEEN IN BUT FOR THE ALLEGED NEGLIGENCE OF THE DEFENDANTS IF YOU FIND A VERDICT FOR THE PLAINTIFF.

*Shirley
Mary Hester, J.*

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DEFENDANTS' CHARGE NO. 24

THE COURT CHARGES YOU THAT THE FOLLOWING IS A CORRECT
DEFINITION OF COMPENSATORY DAMAGES: COMPENSATORY DAMAGES
ARE THOSE DAMAGES TO BE AWARDED TO PLACE THE PLAINTIFF IN
THE SAME POSITION HE WOULD HAVE BEEN IN BUT FOR DEFENDANTS'
ACT AS ALLEGED.

John H. Hester, Jr. Judge

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DEFENDANTS' CHARGE NO. 30

I CHARGE YOU, MEMBERS OF THE JURY, THAT IF YOU ARE REASONABLY SATISFIED FROM THE EVIDENCE THAT THE DAMAGE TO THE PLAINTIFF'S PROPERTY WOULD HAVE OCCURRED REGARDLESS OF THE EXISTENCE OF THE DAM, THEN YOUR VERDICT MUST BE FOR THE DEFENDANTS.

Given by William J. [Signature]

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