

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT INDEPENDENCE**

MICHELLE TALIAFERRO,)
MARIETTA TALIAFERRO and)
KEITH TALIAFERRO,)

Plaintiffs,)

v.)

Case No. 02CV233442

Division 16

GREEN VALLEY TRANSPORTATION)
CORP., CAROL L. KLAUDT, and)
MISSOURI HIGHWAY &)
TRANSPORTATION COMMISSION,)

Defendants.)

PLAINTIFFS' PROPOSED JURY INSTRUCTIONS

Following are plaintiffs' proposed jury instructions, with authorities cited:

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|------------|---|
| MAI 2.01 | Explanatory Instruction For All Cases |
| MAI 2.03 | Explanatory – Order of Instructions |
| MAI 2.02 | Explanatory – Facts Not Assumed |
| MAI 2.04 | Explanatory – Return of Verdict |
| MAI 2.05 | Multi-Claim Submissions – Designation of Applicable Instructions |
| MAI 3.01 | Burden of Proof - General |
| MAI 17.16 | Verdict Directing – Rear End Collision |
| MAI 11.03 | Definitions – Negligence and Highest Degree of Care Combined |
| MAI 5.01 | Damages – Wrongful Death |
| MAI 10.02 | Damages – Exemplary – Negligence Constituting Conscious Disregard for
Others |
| MAI 36.11 | Form of Verdict – Plaintiffs vs. Defendants |
| MAI 2.05 | Multi-Claim Submissions – Designation of Applicable Instructions |
| MAI 10.02 | Damages – Exemplary – Negligence Constituting Conscious Disregard for
Others |
| Not in MAI | Form of Verdict |

Instruction No. ____

(1) GENERAL – JURY INSTRUCTIONS

This instruction and other instructions, which I will read to you near the end of the trial, are in writing. All of the written instructions will be handed to you for guidance in your deliberation when you retire to the jury room. They will direct you concerning the legal rights and duties of the parties and how the law applies to the facts that you will be called upon to decide.

(2) OPENING STATEMENTS

The trial may begin with opening statements by the lawyers as to what they expect the evidence to be. What is said in opening statements is not to be considered as proof of a fact. However, if a lawyer admits some fact on behalf of his client, the other party is relieved of the responsibility of proving that fact.

(3) EVIDENCE

After the opening statements, the plaintiff will introduce evidence. The defendant may then introduce evidence. There may be rebuttal evidence after that. The evidence may include the testimony of witnesses who appear personally in court, the testimony of witnesses who may not appear personally but whose testimony may be read or shown to you, and exhibits such as pictures, documents, and other objects.

(4) OBJECTIONS

There may be some questions asked or evidence offered by the parties to which objection may be made. If I overrule an objection, you may consider that evidence when you deliberate on the case. If I sustain an objection, then that matter and any matter I order to be stricken is excluded as evidence and must not be considered by you in your deliberations.

(5) RULINGS OF LAW AND BENCH CONFERENCES

While the trial is in progress, I may be called upon to determine questions of law and to decide whether certain matters may be considered by you under the law. No ruling or remark that I make at any time during the trial will be intended or should be considered by you to indicate my opinion as to the facts. There may be times when the lawyers come up to talk to me out of your hearing. This will be done in order to permit me to decide questions of law. These conversations will be out of your hearing to prevent issues of law, which I must decide, from becoming mixed with issues of fact, which you must decide. We will not be trying to keep secrets from you.

(6) OPEN MINDS AND NO PRELIMINARY DISCUSSIONS

Justice requires that you keep an open mind about the case until the parties have had the opportunity to present their cases to you. You must not make up your mind about the case until all evidence, and the closing arguments of the parties, have been seen or heard. You must not comment on or discuss with anyone, not even among yourselves, what you hear or learn in trial until the case is concluded and then only when all of you are present in the jury room for deliberation of the case under the final instructions I give to you.

(7) OUTSIDE INFLUENCES

During the trial, you should not remain in the presence of anyone who is discussing the case when the court is not in session. Otherwise some outside influence or comment might influence a juror to make up his or her mind prematurely and be the cause of a possible injustice. For this reason, the lawyers and their clients are not permitted to talk with you until the trial is completed. Your decision must be based only on the evidence presented to you in the proceedings in this courtroom; and you may not conduct your own research or investigation into any of the issues in this case.

(8) FINAL INSTRUCTIONS

After all of the evidence has been presented, you will receive my final instructions. They will guide your deliberation of the issues of fact you are to decide in arriving at your verdict.

(9) CLOSING ARGUMENTS

After you have received my final instructions, the lawyers may make closing arguments. In closing arguments, the lawyers have the opportunity to direct your attention to the significance of the evidence and to suggest the conclusions that may be drawn from the evidence.

(10) DELIBERATIONS

You will then retire to the jury room for your deliberations. It will be your duty to select a foreperson, to decide the facts, and to arrive at a verdict. When you enter into your deliberations, you will be considering the testimony of witnesses as well as other evidence. In considering the weight and value of the testimony of any witness, you may take into consideration the appearance, attitude, and behavior of the witness, the interest of the witness in the outcome of the case, the relation of the witness to any of the parties, the inclination of the witness to speak truthfully or untruthfully, and the probability or improbability of the witness' statements. You may give any evidence or the testimony of any witness such weight and value as you believe that evidence or testimony is entitled to receive.

(11) NOTETAKING

Each of you may take notes in this case, but you are not required to do so. I will give you notebooks. Any notes you take must be in those notebooks only. You may not take any notes out of the courtroom before the case is submitted to you for your deliberations. No one will read your notes while you are out of the courtroom. If you choose to take notes, remember that notetaking may interfere with your ability to observe the evidence and witnesses as they are presented.

Do not discuss or share your notes with anyone until you begin your deliberations.

During your deliberations, if you choose to do so, you may use your notes and discuss them with other jurors. Notes taken during trial are not evidence. You should not assume that your notes, or those of other jurors, are more accurate than your own recollection or the recollection of other jurors.

After you reach your verdict, your notes will be collected and destroyed. No one will be allowed to read them.

Instruction No. _____

As you remember, the court gave you a general instruction before the presentation of any evidence in this case. The court will not repeat that instruction at this time. However, that instruction and the additional instructions, to be given to you now, constitute the law of this case and each such instruction is equally binding upon you. You should consider each instruction in light of and in harmony with the other instructions, and you should apply the instructions as a whole to the evidence. The order in which the instructions are given is no indication of their relative importance. All of the instructions are in writing and will be available to you in the jury room.

Instruction No. _____

In returning your verdict, you will form beliefs as to the facts. The court does not mean to assume as true any fact referred to in these instructions but leaves it to you to determine what the facts are.

Instruction No. _____

The verdict form included in these instructions contains directions for completion and will allow you to return the permissible verdict in this case. Nine or more of you must agree in order to return any verdict. A verdict must be signed by each juror who agrees to it.

Instruction No. _____

Instructions _____ through _____ and general instructions _____ through _____ apply to the claims of Michelle Taliaferro, Keith Taliaferro and Mert Taliaferro for the wrongful death of Christopher Taliaferro. Use Verdict A to return your verdict on these claims.

Instruction No. _____

In these instructions, you are told that your verdict depends on whether or not you believe certain propositions of fact submitted to you. The burden is upon plaintiff to cause you to believe that the evidence has clearly and convincingly established the propositions of fact required for the recovery of damages for aggravating circumstances as submitted in Instruction No. _____. However, on all other propositions of fact, the burden is upon the party who relies upon any such proposition to cause you to believe that such proposition is more likely to be true than not true. In determining whether or not you believe any such proposition, you must consider only the evidence and the reasonable inferences derived from the evidence. If the evidence in the case does not cause you to believe a particular proposition submitted, then you cannot return a verdict requiring belief of that proposition.

Instruction No. _____

Your verdict must be for plaintiffs if you believe:

First, defendants' automobile came into collision with the rear of Christopher Taliaferro's automobile, and

Second, defendants were thereby negligent, and

Third, as a direct result of such negligence, Christopher Taliaferro died.

Instruction No. _____

The term “negligent” or “negligence” as used in these instructions means the failure to use the highest degree of care. The phrase “highest degree of care” means that degree of care that a very careful person would use under the same or similar circumstances.

Instruction No. _____

If you find in favor of plaintiffs, then you must award plaintiffs such sum as you believe will fairly and justly compensate plaintiffs for any damages you believe plaintiffs and decedent sustained and plaintiffs are reasonably certain to sustain in the future as a direct result of the fatal injury to Christopher Taliaferro.

You must not consider grief or bereavement suffered by reason of the death.

Instruction No. _____

If you find in favor of plaintiffs under Instruction No. _____ and if you believe the conduct of defendants as submitted in Instruction No. _____ showed complete indifference to or conscious disregard for the safety of others, then in Verdict A, you may find that defendant Green Valley Transportation is liable for damages for aggravating circumstances.

If you find that defendant Green Valley Transportation is liable for damages for aggravating circumstances in this stage of the trial, you will be given further instructions for assessing the amount of damages for aggravating circumstances in the second stage of the trial.

Instruction No. _____

VERDICT A

Note: Complete this form as required by your verdict.

On the claim of plaintiffs for the wrongful death of Christopher Taliaferro against defendants, we, the undersigned jurors, find in favor of:

Plaintiffs Michelle Taliaferro, Keith Taliaferro and Mert Taliaferro	OR	Defendants Green Valley Transportation and Carol Klaudt
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Note: Complete the following paragraph only if one or more of the above findings is in favor of plaintiffs.

We, the undersigned jurors, assess the damages of plaintiffs Michelle Taliaferro, Keith Taliaferro and Mert Taliaferro at \$ _____ (*stating the amount*).

Note: If you found in favor of plaintiffs Michelle Taliaferro, Keith Taliaferro and Mert Taliaferro and against defendants Green Valley Transportation and Carol Klaudt, complete the following paragraph by writing in the word(s) required by your verdict.

We, the undersigned jurors, find that defendant Green Valley Transportation _____ liable for damages for aggravating circumstances.
“is” or “is not”

Note: All jurors who agree to the above must sign below.

Instruction No. _____

Instructions _____ through _____ and general instructions _____ through _____ apply to the determination of the amount of damages for aggravating circumstances to be assessed against defendant Green Valley Transportation. Use Verdict B to return your verdict as to the amount of damages for aggravating circumstances.

Instruction No. _____

In addition to any damages you assessed in Verdict A, you may assess an additional amount as damages for aggravating circumstances in such sum as you believe will serve to punish defendant Green Valley Transportation for the conduct for which you found that defendant Green Valley Transportation is liable for damages for aggravating circumstances and will serve to deter defendant Green Valley Transportation and others from like conduct.

Instruction No. _____

VERDICT B

Note: Complete this form as required by your verdict.

We, the undersigned jurors, assess damages for aggravating circumstances against defendant Green Valley Transportation at \$_____ (stating the amount, or, if none, write the word “none”).

Note: All jurors who agree to the above must sign below.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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ATTORNEYS FOR PLAINTIFF

Signature of this document certifies that it was served to the persons named below on the date and in the manner indicated:

Person Served	Party	Date	Method
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