

Case No. 05-C-534

CASS COUNTY, TEXAS

2007 APR 20 AM 9:19

BILLY RAY JOHNSON)
through Next Friend)
Lue Wilson,)

Plaintiff,)

v.)

CHRISTOPHER COLT AMOX)
and JAMES COREY HICKS,)

Defendants.)

IN THE DISTRICT COURT

BY SW DEPUTY

OF CASS COUNTY, TEXAS

5th JUDICIAL DISTRICT

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

This case is submitted to you by asking questions about the facts, which you must decide from the evidence you have heard in this trial. You are the sole judge of the credibility of the witnesses and the weight to be given their testimony, but in matters of law, you must be governed by the instructions in this charge. In discharging your responsibility on this jury, you will observe all the instructions

~~which have previously been given you. I shall now give you additional instructions which have previously been given you. I shall now give you additional instructions~~

which you should carefully and strictly follow during your deliberations.

1. Do not let bias, prejudice or sympathy play any part in your deliberations.
2. In arriving at your answers, consider only the evidence introduced here under oath and such exhibits, if any, as have been introduced for

your consideration under the rulings of the Court, that is the evidence seen and heard in this courtroom, together with the law as given you by the Court. In your deliberations, you will not consider or discuss anything that is not represented by the evidence in this case.

3. Since every answer that is required by the charge is important, no

~~answer should be considered less important than any required answer is not~~
important.

4. You must not decide who you think should win, and then try to answer the questions accordingly. Simply answer the questions, and do not discuss nor concern yourselves with the effect of your answers.

5. You will not decide the answer to a question by lot or by drawing straws, or by any other method of chance. Do not return a quotient verdict. A quotient verdict means that the jurors agree to abide by the

~~method of adding together each juror's figures and~~
dividing by the number of jurors to get an average. DO NOT DO ANY

~~trading on your answers; that is, one juror should not agree to answer~~
a certain question one way if others will agree to answer another question another way.

6. You may render your verdict upon the vote of ten or more members of the jury. The same ten or more of you must agree upon all of the

~~answers made and to the entire verdict. You will not discuss or~~
into an agreement to be bound by a majority or any other vote of less than ten jurors. If the verdict and all of the answers therein are reached by unanimous agreement, the presiding juror shall sign the verdict for the entire jury. If any juror disagrees as to any answer

sign the verdict.

~~These instructions are given you because your conduct is subject to review~~
the same as that of the witnesses, parties, attorneys and the Judge. If it should be found that you have disregarded any of these instructions, it will be jury misconduct and it may require another trial by another jury; then all of our time will have been
wasted.

The presiding juror or any other who observes a violation of the court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.

When words are used in this charge in a sense which varies from the meaning commonly understood, you are given a proper legal definition, which you are bound to accept in place of any other meaning.

Answer "YES" or "NO" to all questions unless otherwise instructed. A "YES" answer must be based on a preponderance of the evidence. If you do not find that a

preponderance of the evidence supports a "YES" answer, then answer "NO".

Whenever a question requires other than a "YES" or "NO" answer, your answer must be based on a preponderance of the evidence.

"PREPONDERANCE OF THE EVIDENCE" means the greater weight and degree of credible testimony or evidence introduced before you and admitted in this case.

A fact may be established by direct evidence or by CIRCUMSTANTIAL EVIDENCE or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken. A fact is established by CIRCUMSTANTIAL EVIDENCE when it may be fairly and reasonably inferred from other facts proved.

"NEGLIGENCE" means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

"PROXIMATE CAUSE" means that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the event, or

some similar event, might reasonably result therefrom. There may be more than one proximate cause of an event.

"ORDINARY CARE" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

QUESTION NO. 1

Did Christopher Colt Amox commit an assault against Billy Ray Johnson?

A person commits an "ASSAULT" if he intentionally causes bodily injury to another.

~~A person acts "INTENTIONALLY," or with intent, with respect to a result of~~
his conduct when it is his conscious objective or desire to cause that result. The person need not intend the specific injury complained of for an assault to be committed.

Answer "Yes" or "No":

ANSWER: YES

QUESTION NO. 2

If you have answered "Yes" to Question No. 1, then answer the following question. Otherwise, do not answer the following question.

Did the assault proximately cause injury to Billy Ray Johnson?

Answer "Yes" or "No":

ANSWER: YES

QUESTION NO. 3

Do you find that James Corey Hicks and Christopher Colt Amox engaged in a civil conspiracy which proximately caused injury to Billy Ray Johnson?

A "CIVIL CONSPIRACY" means a combination by two or more persons to accomplish an unlawful purpose or to accomplish a lawful purpose by unlawful means. To find a civil conspiracy, you must find the following:

- a. a combination of two or more persons;
- b. who agree or have a meeting of the minds;
- c. to accomplish an unlawful purpose or to accomplish a lawful purpose by unlawful means; and
- d. at least one of the persons commits at least one unlawful, overt act in furtherance of the conspiracy.

~~"UNLAWFUL" means violative of either criminal or civil law.~~

To establish a conspiracy, it is not necessary to prove that the conspirators actually came together and made a formal agreement; the understanding may be an ~~implicit one. An agreement may be inferred from words, acts and conduct that~~ reflect an understanding between the conspirators to inflict a wrong against, or injury to, another. A conspirator is liable for the acts done by all other conspirators ~~in furtherance of the conspiracy, even if the conspirator has merely planned~~ assisted, or encouraged the other's acts.

Answer "Yes" or "No":

ANSWER: YES

QUESTION NO. 4

Do you find that the negligence, if any, of those named below proximately caused injury to Billy Ray Johnson?

Answer "Yes" or "No" for each of the individuals listed below.

ANSWER:

- | | |
|--------------------------|------------|
| A. James Corey Hicks | <u>YES</u> |
| B. Christopher Colt Amox | <u>YES</u> |
| C. Dallas Chadwick Stone | <u>YES</u> |
| D. John Wesley Owens | <u>YES</u> |

QUESTION NO. 5

If you have answered "Yes" to Question Nos. 1, 3, or 4 for more than one of the persons named in those questions, then answer the following question with

~~the following question.~~
the following question.

The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The fault attributable to any one named below is not necessarily measured by the number of acts or omissions found.

What percentage of the fault that caused injury to Billy Ray Johnson do you find to be attributable to each of those listed below and found by you, in your answer to Question Nos. 1, 3, or 4, to have been at fault?

ANSWER:

A.	James Corey Hicks	<u>40</u> %
B.	Christopher Colt Amox	<u>40</u> %
C.	Dallas Chadwick Stone	<u>8</u> %
D.	John Wesley Owens	<u>12</u> %
	TOTAL	<u>100</u> %

QUESTION NO. 6

What sum of money, if any, if paid now in cash, do you find would fairly ~~and reasonably compensate Billy Ray Johnson for his injuries, if any, which you~~
find from a preponderance of the evidence resulted from the occurrence in
question?

Consider the elements of damages listed below and none other. Consider
~~each element separately. Do not include interest on any amount of damages you~~
find.

Answer separately, in dollars and cents, for damages, if any.

a. Medical care expenses incurred in the past.

Answer: \$ 173,810.44

b. Medical care expenses that, in reasonable probability, Billy Ray Johnson will sustain in the future.

Answer: \$ 2,844,335.29

c. Physical pain and mental anguish sustained in the past.

Answer: \$ 1,500,000.00

d. Physical pain and mental anguish that, in reasonable probability, Billy Ray Johnson will sustain in the future.

Answer: \$ 1,500,000.00

e. Physical impairment sustained in the past.

Answer: \$ 1,500,000.00

f. Physical impairment that, in reasonable probability, Billy Ray Johnson will sustain in the future.

Answer: \$ 1,500,000.00

After you retire to the jury room, you will select your own presiding juror.

The first thing the presiding juror will do is to have this complete charge read aloud and then you will deliberate upon your answers to the questions asked.

It is the duty of the presiding juror:

1. to preside during your deliberations;

~~2. to see that all questions are conducted in an orderly manner and~~

~~in accordance with the instructions in this charge;~~

3. to write out and hand to the bailiff any communications concerning the case that you desire to have delivered to the judge;

4. to vote on the questions;

5. to write your answers on the questions in the spaces provided; and

6. to certify to your verdict in the space provided for the presiding juror's signature or to obtain the signatures of all the jurors who agree

~~with the verdict if your verdict is less than unanimous.~~

~~7. to talk with anyone, not even with other members~~

of the jury, unless all of you are present and assembled in the jury room. Should anyone attempt to talk to you about the case before the verdict is returned, whether at the courthouse, at your home, or elsewhere, please inform the Judge of this fact.

When you have answered all of the questions you are required to answer under the instructions of the Judge and your presiding juror has placed your

answers in the spaces provided and signed the verdict as presiding juror or obtained the signatures, you will inform the bailiff at the door of the jury room that you have reached a verdict, and then you will return into court with your verdict.


JUDGE PRESIDING

CERTIFICATE

We, the Jury, have answered the above and foregoing questions as herein indicated, and herewith return same into court as our verdict.

~~(To be signed by the presiding juror if the jury is unanimous.)~~

Victoria J. Payton
Presiding Juror

(To be signed by those rendering the verdict if not unanimous.)

Jurors' Signatures:

Jurors' Printed Names:

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