

ENTERED
HENRY CO. CIRCUIT/DISTRICT COURT
APR 18 2014
GINA LYLE, CLERK
BY: *[Signature]* D.C.

**COMMONWEALTH OF KENTUCKY
HENRY CIRCUIT COURT
CIVIL ACTION NO. 09-CI-144**

REBECCA A. GUSE, INDIVIDUALLY
AND AS EXECUTRIX OF THE ESTATE
MICHAEL RALPH GUSE

PLAINTIFF

V. **JURY INSTRUCTIONS**

SOUTHERN STATES COOPERATIVE, INC.

DEFENDANT

*** **

INSTRUCTION NO. 1

Immediately upon retiring to the Jury Room you elect one (1) of your members as a Foreperson. The Jury is instructed to answer the questions contained in the following Instructions and to indicate your answers on the spaces provided after each question. To answer the question, at least nine (9) or more of you must agree in order to make any of the determinations required by these Instructions. The nine (9) or more who agree on one (1) question need not be the same Jurors who agree on another.

If all twelve (12) of you agree on the answers to all of these determinations to which you are required to respond, the Foreperson alone can sign for you. Each response on which you are not unanimous must be signed by the nine (9) or more of you who agree.

If nine or more of you are unable to agree one way or another on a YES or NO response as required by these Instructions, the foreperson shall write the words, "NO VERDICT" next to the YES or NO spaces and shall sign that notation.

DATE: April 18, 2014

Karen Conrad
KAREN A. CONRAD, JUDGE
HENRY CIRCUIT COURT, DIV. I

Please proceed to Instruction No. 2.

INSTRUCTION NO. 2

You are instructed that at the time, place, and on the occasion referred to in the evidence, it was the duty of the Defendant, Southern States Cooperative, Inc., to exercise ordinary care in the operation of its business. You are further instructed that "ordinary care" as applied to Defendant means such care as the jury would expect an ordinarily prudent supplier of propane engaged in the same type of business to exercise under similar circumstances.

Please proceed to Interrogatory No. 1.

INTERROGATORY NO. 1

If you are satisfied from the evidence that Defendant Southern States Cooperative, Inc.'s failure to exercise ordinary care was a substantial factor in causing Mr. Guse's death, please mark "yes" below and proceed to Instruction No. 3.

YES

NO

Rudolph J. Henry Jr.
FOREMAN (if unanimous)

(if not unanimous)

MEMBERS OF THE JURY

Please proceed to Instruction No. 3

INSTRUCTION NO. 3

It was the duty of Defendant Southern States Cooperative, Inc. to respond to calls to its emergency phone line within sixty minutes of the call.

Please proceed to Interrogatory No. 2

INSTRUCTION NO. 4

It was the duty of Defendant Southern States Cooperative, Inc. to maintain individual customer files on propane customers.

Please proceed to Interrogatory No. 3

INTERROGATORY NO. 3

If you are satisfied from the evidence that Defendant Southern States Cooperative Inc. failed to comply with its duty to maintain individual customer files on propane customers, ^{and} that failure was a substantial factor in causing Mr. Guse's death, please mark "yes" below and proceed to Instruction No. 5.

YES _____

NO _____

Arnold J. H. [Signature]
FOREMAN (if unanimous)

(if not unanimous)

MEMBERS OF THE JURY

Please proceed to Instruction No. 5

INSTRUCTION NO. 5

Regarding the 100# propane cylinders located at the DeBurger home, it was the duty of Defendant, Southern States Cooperative Inc. from 2000 until 2006 to go into the field and pick them up if they had not been used for 1 year.

Please proceed to Interrogatory No. 4

INTERROGATORY NO. 4

If you are satisfied from the evidence that Defendant Southern States Cooperative Inc. failed to comply with its duty (in place from 2000 to 2006) regarding the #100 pound propane cylinders located at the DeBurger home, to go into the field and pick them up if they had not been used for 1 year, and that failure was a substantial factor in causing Mr. Guse's death, please mark "yes" below.

YES _____

NO _____

David J. J.
FOREMAN (if unanimous)

(if not unanimous)

MEMBERS OF THE JURY

If you answered "yes" to any Interrogatories number 1 through 4, please proceed to Instruction No. 6.

If you answered "no" to all Interrogatories number 1 through 4, please proceed to Verdict Form A.

INSTRUCTION NO. 6

You are instructed that at the time, place, and on the occasion referred to in the evidence, it was the duty of Michael Guse to exercise ordinary care for his own safety and the safety of others. You are further instructed that "ordinary care" for an individual means the care that one would expect an ordinarily prudent person to exercise under similar circumstances.

Please proceed to Interrogatory No. 5.

INTERROGATORY NO. 5

Do you believe from the evidence that Michael Guse failed to perform one or more of the duties imposed upon him by Instruction No. 6, and that his failure was a substantial factor in causing and bringing about his own death?

YES ✓ NO _____

David J. ...
FOREMAN (if unanimous)

(if not unanimous)

MEMBERS OF THE JURY

Please proceed to Instruction No. 7.

INSTRUCTION NO. 7

You are instructed that at the time, place, and on the occasion referred to in the evidence, it was the duty of C.A. Garner Veneer and any employees (other than Michael Guse) to exercise ordinary care in the operation of its business. You are further instructed that "ordinary care" as applied to C.A. Garner Veneer and its employees means such care as the jury would expect an ordinarily prudent person engaged in the same type of business to exercise under similar circumstances.

Please proceed to Interrogatory No. 6

INTERROGATORY NO. 6

Do you believe from the evidence that C.A. Garner Veneer or its employees failed to perform one or more of the duties imposed upon it by Instruction No. 7, and that said failure was a substantial factor in causing and bringing about the death of Michael Guse?

YES ✓

NO _____

[Signature]
FOREMAN (if unanimous)

(if not unanimous)

Please proceed to Instruction No. 8.

INSTRUCTION NO. 8

You will determine from the evidence and indicate in the following blank spaces what percentage of total fault was attributable to each of the parties you find to have been at fault:

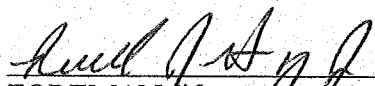
Southern States Cooperative, Inc. 40 %

Michael Guse
(If you answered YES to Interrogatory No. 5
you will allocate a percentage of fault to Michael Guse) 25 %

C.A. Garner Veneer, Inc. and/or its employees
(If you answered YES to Interrogatory No. 6
you will allocate a percentage of fault to
C.A. Garner Veneer, Inc.) 35 %

TOTAL 100 %

(In determining the percentages of fault you shall consider both the nature of the conduct of each party at fault and the extent of the causal relation between his/her conduct and the damages claimed.)


FOREMAN (if unanimous)

(if not unanimous)

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

MEMBERS OF THE JURY

Please proceed to Instruction No. 9.

INSTRUCTION NO. 9

If you find for the Plaintiff, Rebecca Guse under these instructions, you will determine from the evidence and award her a sum or sums of money that will fairly and reasonably compensate her for such of the following damages arising as a direct result of this explosion for each of the following. (Please fill in figure on the right):

“Pain and Suffering” are damages awarded against the Defendant that will fairly and reasonably compensate his estate for whatever physical or mental suffering you believe from the evidence he sustained as a direct result of his injuries.

“Consortium” means the right to services, assistance, aid, society, companionship and conjugal relationship between husband and wife, or wife and husband.

- | | |
|--|------------------------|
| 1. Michael R. Guse’s destruction to labor and earn money claim
(not to exceed \$1,034,302.00) | \$ <u>680,000.00</u> |
| 2. Michael R. Guse’s pain and suffering
(not to exceed \$1,000,000.00) | \$ <u>1,000,000.00</u> |
| 3. Rebecca Guse’s loss of spousal consortium claim
(not to exceed \$3,000,000.00) | \$ <u>1,500,000.00</u> |
| TOTAL: | \$ <u>3,180,000.00</u> |

Please Proceed to Verdict Form B

VERDICT FORM A

We, the jury, find in favor of the Defendant, Southern States Cooperative, Inc.

FOREPERSON (If unanimous)

If not unanimous, nine or more who agree:

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

Please notify the Sheriff's Deputy you are ready to return to Courtroom.

VERDICT FORM B

We, the jury, award the following damages to the Plaintiff Rebecca Guse, individually and as Executrix of the Estate of Michael Ralph Guse:

- | | |
|---|------------------------|
| 1. Michael R. Guse's impairment to labor and earn money claim
(not to exceed \$1,034,302.00) | \$ <u>680,000.00</u> |
| 2. Michael R. Guse's pain and suffering
(not to exceed \$1,000,000.00) | \$ <u>1,000,000.00</u> |
| 3. Rebecca Guse's loss of spousal consortium claim
(not to exceed \$3,000,000.00) | \$ <u>1,500,000.00</u> |
| TOTAL: | \$ <u>3,180,000.00</u> |



FOREPERSON

Please proceed to Instruction No. 10.

INSTRUCTION NO. 10

If you find for the Plaintiff and awarded her a sum of money in damages under these instructions, and if you are further satisfied from the evidence that in failing to comply with its duties, Defendant Southern States Cooperative, Inc. acted with reckless disregard for the lives, safety or property of others, you may in your discretion, award punitive damages in addition to the damages awarded under Instruction No. 9. In determining the amount of punitive damages you should consider the following factors:

1. The harm to the Plaintiff as measured by the damages you have awarded under Instruction No. 9;
2. The degree, if any, to which you have found from the evidence that Southern States Cooperative, Inc.'s failure to comply with its duties was reprehensible, considering:
 - a. The harm caused was physical as opposed to economic;
 - b. The degree to which Southern States Cooperative, Inc.'s conduct under these instructions evinced a reckless disregard of the health and safety of others;
 - c. The degree to which Southern States Cooperative, Inc.'s conduct involved repeated actions as opposed to an isolated incident;

“Punitive damages” are damages awarded against the Defendant Southern States Cooperative, Inc. for the purpose of punishing the Southern States Cooperative, Inc. for their misconduct in this case and deterring them and others from engaging in similar conduct in the future.

If you award punitive damages, you will state the amount separately from the sum or sums awarded under Instruction No. 9.


Enter your verdict on Verdict Form C.

VERDICT FORM C

We, the jury, award the following punitive damages to the Plaintiff Rebecca Guse, individually and as Executrix of the Estate of Michael Ralph Guse:

1. Punitive Damages (not to exceed \$5,000,000.00)	\$ <u>3,000,000.00</u>
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TOTAL:	\$ <u>3,000,000.00</u>
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FOREPERSON

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

Please notify the Sheriff's Deputy you are ready to return to Courtroom.