

COMMONWEALTH OF KENTUCKY  
CALLOWAY CIRCUIT COURT  
CASE NO. 19-CI-00270

SUSAN HOOD

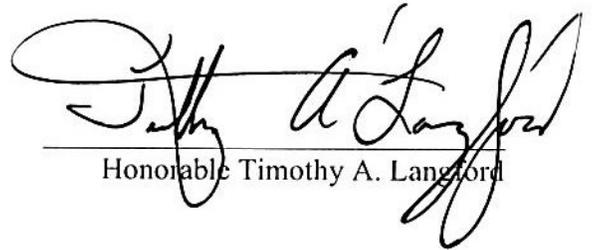
v.

JURY INSTRUCTIONS

CITY OF MURRAY, KENTUCKY  
and CITY OF MURRAY PUBLIC WORKS  
and UTILITIES

ENTERED  
THIS 5/10, 2022  
CALLOWAY CIRCUIT/DISTRICT  
BY: [Signature] D.C.

DEFENDANTS

  
Honorable Timothy A. Langford

**INSTRUCTION NO. 1**

The first thing that you should do in the jury room is choose someone to be your foreperson. This person will help to guide your discussions and will speak for you here in court.

Nine (9) or more of you must agree in order to make any of the determinations required by these Instructions. The nine or more who agree on one determination, however, need not be the same jurors who agree on another. If all twelve (12) of you agree, then only the foreperson need sign the response. However, if less than twelve (12) but at least nine (9) of you agree, all of those agreeing must sign.

INSTRUCTION NO. 2

**“Burden of Proof: Preponderance of the Evidence:”**

Sue Hood has the burden of proving her case by a preponderance of the evidence. To establish a preponderance of the evidence means to prove something is more likely so than not so.

If you find that Sue Hood has failed to prove any element of her claim by a preponderance of the evidence, then she may not recover on that claim.

**INSTRUCTION NO. 3**

**“Ordinary care”** as applied to Sue Hood means such care as the jury would expect an ordinarily prudent person engaged in the same activity under similar circumstances.

INSTRUCTION NO. 4

Duty Owed by Plaintiff Sue Hood

It was the duty of the Plaintiff Sue Hood to exercise ordinary care for her safety and had a duty to exercise reasonable attention to any danger that might exist upon the ground as she walked.

**INSTRUCTION NO. 5**

The Defendant City of Murray Public Works & Utilities is a department of the City of Murray. As such, Defendant City of Murray Public Works & Utilities is merged with Defendant City of Murray, Kentucky.

**INSTRUCTION NO. 6**

**Duty Owed by City of Murray, Kentucky**

It was the ordinary duty of Defendant, City of Murray, Kentucky, to exercise reasonable care to ensure that water meter covers or lids are properly secured and maintained in a reasonably safe condition for its customers and pedestrians, including plaintiff Sue Hood.

**Subsequent Remedial Measures Admonition 7**

You have heard evidence that the City of Murray replaced the water meter jar and lid where Susan Hood fell. This evidence is not admissible to prove negligence, culpable conduct, a defect in the water meter jar and lid, a defect in the design of the water meter jar and lid, or a need for a warning or instruction. You shall not consider the replacement of the meter jar and lid as evidence of negligence, culpable conduct, a defect in the water meter jar and lid, a defect in the design, or as evidence of a need for a warning or instruction. You shall not consider evidence that the City of Murray replaced the water meter jar and lid where Susan Hood fell in determining whether the City of Murray failed to comply with its standard of care owed to Susan Hood or whether the City of Murray caused Susan Hood's injuries, if any.

INSTRUCTION NO. 8

It was the duty of the City of Murray, Kentucky to exercise ordinary care to maintain its meters located in or near a street or sidewalk in a reasonably safe condition for the use of pedestrians traveling upon it, including Susan Hood. You will find for Susan Hood if you are satisfied from the evidence that the City of Murray, Kentucky failed to comply with this duty on September 5, 2018, and that the meter lid became unsecure and remained in that condition for a sufficient length of time before Susan Hood fell into it, that in the exercise of ordinary care the City of Murray, Kentucky or its employees responsible for the work should have discovered the condition and remedied it.

Are you satisfied from the evidence that (1) City of Murray failed to comply with this duty on September 5, 2018, and (2) that the meter lid became unsecure and remained in that condition for a sufficient length of time before Susan Hood fell into it that in the exercise of ordinary care the City of Murray, Kentucky or its employees responsible for the work should have discovered the condition and remedied it.

Select one: Yes \_\_\_\_\_ No X

Paul Brumby John Vester Erin May  
Foreperson  
Don Littel Logan W Luigi L. Auger  
Christie Farmer Jana Burkan Linda Stockton  
Delphine Colson Richela Carson

If you answered "yes" to this Instruction, please proceed to the next Instruction.

If you answered "no" to this Instruction, your verdict must be for the Defendants, and you need not proceed further in considering this claim. Please return to the courtroom.

INSTRUCTION NO. 9

If you have answered "YES" under Instruction No. 8, do you believe that such failure on the part of the City of Murray, Kentucky was a substantial factor in causing Susan Hood's injuries?

Select one: Yes \_\_\_\_\_ No \_\_\_\_\_

Foreperson

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Please proceed to the next Instruction.

INSTRUCTION NO. 10

It was the duty of Susan Hood to exercise ordinary care for her own safety.

Are you satisfied from the evidence that (1) Susan Hood failed to comply with this duty and (2) that such failure was a substantial factor in causing her injuries.

Select one: Yes \_\_\_\_\_ No \_\_\_\_\_

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Foreperson

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If you answered "yes" to this Instruction, then please proceed to the next Instruction.

If you answered "no" to this Instruction, then please proceed to Instruction No. 12.

**INSTRUCTION NO. 11**

As you have now found fault on the part of Susan Hood and City of Murray, Kentucky, you will further determine from the evidence and indicate in the following blank spaces what percentage of the total fault for Susan Hood's injuries was attributable to each of the parties, if any, as follows:

Susan Hood:	_____ %
City of Murray, Kentucky	_____ %
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 conduct and the damages claimed.

Foreperson		

Please proceed to the next Instruction.



COMMONWEALTH OF KENTUCKY  
CALLOWAY CIRCUIT COURT  
CASE NO. 19-CI-000270

SUSAN HOOD

PLAINTIFF

VS.

ORDER

ENTERED  
THIS 8/24, 2022  
CALLOWAY CIRCUIT/DISTRICT  
BY: [Signature] D.C.

CITY OF MURRAY, KENTUCKY and  
CITY OF MURRAY PUBLIC WORKS AND UTILITES

DEFENDANTS

The Court having reviewed the defendant's "Daubert Motion" and the plaintiff's response in regard to the testimony of William Gulya, Jr. and the Court having reviewed the file and being otherwise sufficiently advised,

IT IS HEREBY THE FINDING OF THIS COURT that sufficient issues were raised in the defendant's motion and plaintiff's response that a hearing should be conducted to determine if the testimony of William Gulya, Jr. should be admitted and if the Court finds his testimony should be admitted what parts thereof may be admissible.

IT THEREFORE THE ORDER OF THIS COURT that the hearing should be conducted as the trial progresses prior to the time Mr. Gulya is allowed to testify (if he is allowed to testify).

IT IS THE FURTHER ORDER OF THIS COURT that counsels for plaintiff and defendant shall report to the Calloway County Courtroom at the hour of 8:00 a.m., on the morning of trial, Monday, August 8, 2022, for purposes of the scheduling a hearing if the same is possible prior to selection of the jury or during the course of the trial as needed.

DATED: August 4, 2022

[Signature]  
TIMOTHY A. LANGFORD, Special Judge