

CIVIL ACTION NO. 14-CI-02843

JEFFERSON CIRCUIT COURT
JUDGE SUSAN SCHULTZ GIBSON
DIVISION 12

PEGGY MUDD

PLAINTIFF

-VS-

JURY INSTRUCTIONS

COMMUNITY CAPITAL CORP. d/b/a COMMUNITY
CAPITAL, CROSSLAND PROPERTIES, LLC and ALBIN
USED CARS I, LLC d/b/a COMMUNITY CAPITAL

DEFENDANTS

GENERAL INSTRUCTIONS

(a) Immediately upon retiring to the jury room, you should elect one of you as a foreperson.

(b) In order to answer any of the questions which follow, nine (9) or more of you must agree; however, the nine (9) or more of you who agree upon one question do not have to be the same nine (9) who agree upon another question.

(c) If all twelve (12) of you agree on the answer to a question, the foreperson alone can sign, however, if the answer is not unanimous, the answer must be signed by the nine (9) or more of you who agree.

Please proceed to Instruction No. 1.

INSTRUCTION NO. 1

“Ordinary care”, as applied to Defendants Community Capital Corp., Albin Used Cars I, and Crossland Properties, LLC, means such care as the jury would expect an ordinarily prudent person engaged in the same type of business to exercise under similar circumstances.

“Ordinary care”, as applied to Plaintiff Peggy Mudd, means such care as the jury would expect an ordinarily prudent person to exercise under similar circumstances.

INSTRUCTION NO. 2

It was the duty of Defendants Community Capital Corp., Albin Used Cars I, Crossland Properties, LLC and its employees to exercise ordinary care to maintain and keep its premises in a reasonably safe condition for the use of its customers, including the Plaintiff.

You will find for the Plaintiff if you are satisfied from the evidence as follows:

- a. That the Defendants' premises were not in a reasonably safe condition for the use of the Defendants' customers including the Plaintiff; **AND**
- b. That in the exercise of ordinary care the Defendants should have anticipated that the Plaintiff would not have noticed the step at the doorway over which she fell; **AND**
- c. That such condition was a substantial factor in causing the Plaintiff's injuries.

Otherwise you will find for the Defendant.

Please proceed to Interrogatory A.

INTERROGATORY A

Do you believe from the evidence that the Defendants' premises were not in a reasonably safe condition for the use of the Defendants' customers, which includes Peggy Mudd?

AND

Do you believe from the evidence that the Defendants should have anticipated that Peggy Mudd would not have appreciated the step outside the exit door of Defendants' premises over which she fell?

AND


Do you believe from the evidence that such condition was a substantial factor in causing Peggy Mudd's injuries?

YES _____

NO _____

If you answered "YES" above, proceed to the next instruction.

If you answered "NO" above, proceed no further with these instructions and interrogatories, and return to the courtroom.


FOREPERSON (IF UNANIMOUS)

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____
- 6) _____
- 7) _____
- 8) _____
- 9) _____
- 10) _____
- 11) _____

(MEMBERS OF THE JURY, IF NOT UNANIMOUS)

Please proceed to the next instruction.

INSTRUCTION NO. 3

It was the duty of Plaintiff Peggy Mudd to exercise ordinary care for her own safety and protection.

Please proceed to Interrogatory B.

INTERROGATORY B

Do you believe from the evidence presented that Plaintiff Peggy Mudd failed to exercise ordinary care for her own safety and protection, and that such failure was a substantial factor in causing her injuries?

Yes _____

No _____

FOREPERSON (IF UNANIMOUS)

1) _____

2) _____

3) _____

4) _____

5) _____

6) _____

7) _____

8) _____

9) _____

10) _____

11) _____

(MEMBERS OF THE JURY, IF NOT UNANIMOUS)

Please proceed to the next instruction.

INSTRUCTION NO. 4

The parties have stipulated, meaning they agree, that the fall experienced by Peggy Mudd did not cause her arterious venous malformation (AVM), and the surgical removal of the AVM was not necessitated by her fall.

INSTRUCTION NO. 5

You will determine from the evidence and state the sum or sums of money that will fairly and reasonably compensate the Plaintiff for such of the following damages as you determine from the evidence she has sustained directly by reason of the fall at the Defendants' premises located at 4125 S. 3rd Street, Louisville, KY 40214. You shall make this determination without regard to the fault of any of the parties.

A. Reasonable expenses incurred for hospital and medical services (not to exceed \$5,501.53) \$ _____

B. Mental and physical suffering, including any such suffering she is reasonably certain to endure in the future (Not to exceed \$2,500,000.00) \$ _____

FOREPERSON (IF UNANIMOUS)

- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____
- 6) _____
- 7) _____
- 8) _____
- 9) _____
- 10) _____
- 11) _____

(MEMBERS OF THE JURY, IF NOT UNANIMOUS)

If you answered "YES" to Interrogatory B, proceed to the next instruction.
If you answered "NO" to Interrogatory B, proceed no further and return to the courtroom.

INSTRUCTION NO. 6

If you have answered "Yes" to **Interrogatories A and B**, you have determined that both the Plaintiff and Defendant failed to comply with their respective duties as set forth in the instructions applicable to them and that such failure by each was a substantial factor in causing the Plaintiff's injuries. You will now determine from the evidence and indicate on the following blank spaces, what percentage of the total fault was attributed to each of the parties. In determining the percentage of fault, you should consider both the nature of the conduct of each party at fault and the extent of the causal relation between that conduct and the damages claimed.

Plaintiff Peggy Mudd	_____	%
Defendants	_____	%
	TOTAL	100%

FOREPERSON (IF UNANIMOUS)

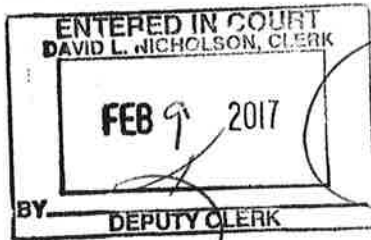
- 1) _____
- 2) _____
- 3) _____
- 4) _____
- 5) _____
- 6) _____
- 7) _____
- 8) _____
- 9) _____
- 10) _____
- 11) _____

(MEMBERS OF THE JURY, IF NOT UNANIMOUS)

(Please inform the Sheriff that you have reached a verdict)

JURY INSTRUCTIONS GIVEN BY:

2/9/17
Date




HON. SUSAN SCHULTZ GIBSON, Judge