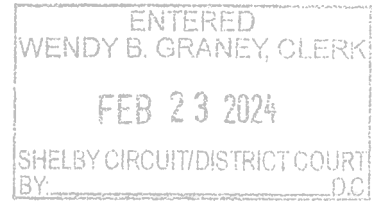


COMMONWEALTH OF KENTUCKY
SHELBY CIRCUIT COURT
CIVIL ACTION NO. 21-CI-00413



SUSAN BECKER

PLAINTIFF

VS.

JURY INSTRUCTIONS

NICKEY A. ROLPH
AND
IMI KENTUCKY, LLC

DEFENDANTS

*** *** ***

GENERAL INSTRUCTION

- A. Immediately upon retiring to the jury room, you will elect one of your number as foreperson.
- B. Nine or more of you must agree in order to answer any of the questions or make any of the determinations required by these instructions.
- C. If all twelve of you agree on the answers to any of the questions and the determinations, the Foreperson alone may sign for you.
- D. Each answer or response in which the verdict is not unanimous must be signed by nine or more of you who agree. The nine or more of you who agree on any one question or determination, however, need not be the same nine jurors who agree upon another.

INSTRUCTION NO. 1

Members of the jury, now that you have heard all the evidence and the arguments of the attorneys, it is my duty to instruct you on the law which applies to this case.

It is your duty to find the facts from all the evidence in the case. To those facts you will apply the law as I give it to you. You must follow the law as I give it to you whether you agree with it or not. You must not be influenced by any personal likes or dislikes, opinions, prejudices, or sympathy. That means that you must decide the case solely on the evidence before you. You will recall that you took an oath promising to do so at the beginning of the case.

You may use notes taken during the trial to assist your memory. Notes, however, should not be substituted for your memory, and you should not be overly influenced by the notes.

The evidence from which you are to decide the facts consists of the following:

1. The sworn testimony of witnesses, on both direct and cross-examination, regardless of who called the witness;
2. The exhibits which have been received into evidence; and
3. Any facts to which the lawyers have agreed or stipulated.

In reaching your verdict, you may consider only the testimony and exhibits received into evidence. Certain things are not evidence and you may not consider them in deciding what the facts are. I will list them for you:

1. Arguments and statements by lawyers are not evidence. The lawyers are not witnesses.
2. Questions and objections by lawyers are not evidence. Attorneys have a duty to their clients to object when they believe a question is improper under the rules

of evidence. You should not be influenced by the objection or by the court's ruling on it.

3. Testimony that has been excluded or stricken, or that you have been instructed to disregard, is not evidence and must not be considered.

Anything you may have seen or heard when the Court was not in session is not evidence. You are to decide the case solely on the evidence received at the trial.

INSTRUCTION NO. 2

“Ordinary care” is used in these instructions means such care as the jury would expect an ordinarily prudent person to exercise under similar circumstances.

“Substantial Factor” means that an act or failure to act played a material part in bringing about or actually causing the injury. There may be more than one substantial factor that causes harm.

INSTRUCTION NO. 3
Preponderance of the Evidence

Plaintiff has the burden in a civil action, such as this, to prove every essential element of its claims by a preponderance of the evidence. If the Plaintiff should fail to establish any essential element of its claim(s) by a preponderance of the evidence, you should find for Defendant as to that claim(s). In determining whether any fact in issue has been proven by a preponderance of the evidence, unless otherwise instructed you may consider the testimony of all witnesses, regardless of who may have called them, and all exhibits received in evidence, regardless of who may have produced them.

INSTRUCTION NO. 4

It was the duty of Nickey Rolph, in pulling out onto Brooks Industrial Road from a private parking lot on or about October 1, 2020, to exercise ordinary care for a reasonably prudent commercial motor vehicle driver for the safety of other persons and vehicles using the street, including Susan Becker, and this general duty included the following specific duties:

- (a) To keep a lookout for other persons and vehicles in or approaching so near to his intended line of travel as to be in danger of collision;
- (b) To have his automobile under reasonable control; and
- (c) To yield the right of way to Susan Becker's approaching vehicle and not to enter Brooks Industrial Road if her vehicle was so near that Nickey Rolph could not by the exercise of ordinary care avoid a collision with her; and
- (d) To exercise ordinary care generally to avoid collision with other vehicles using the roadway.

INSTRUCTION NO. 6

It was the duty of Plaintiff Susan Becker in driving her automobile to exercise ordinary care for the safety of herself and other persons using the roadway, and this general duty included the following specific duties:

- (a) To keep a lookout ahead for other persons and vehicles in front of her or approaching so near to her intended line of travel as to be in danger of collision;
- (b) To have her automobile under reasonable control; and
- (c) To exercise ordinary care generally to avoid collision with other vehicles using the roadway.

INSTRUCTION NO. 7

Are you satisfied from the evidence that Plaintiff Susan Becker failed to perform one or more of her duties as set forth in Instruction No. 6 and that such failure was a substantial factor in causing the collision with Defendant Nickey A. Rolph's vehicle?

Yes _____

No _____

Christina Willard
(Foreperson, if unanimous)

(Nine or more who agree, if not unanimous)

If your answer was "Yes", to number 7 go to Instruction No. 8.

If your answer was "No", go to Instruction No. 9.

INSTRUCTION NO. 8

If you answered "Yes" to both Question Nos. 5 and 7, you will determine from the evidence what percentage of fault was attributable to each of the parties to this action which you have found to be at fault. In making this determination, you shall consider both the nature of the conduct of each party and the extent of the causal relationship between that conduct and the Plaintiff's damages.

Nickey A. Rolph

75 %

Susan Becker

25 %

TOTAL 100%

Debra Willard

(Foreperson, if unanimous)

(Nine or more who agree, if not unanimous)

Please proceed to Instruction No. 9

INSTRUCTION NO. 9

You must now determine from the evidence the sum or sums of money that will fairly and reasonably compensate Susan Becker for the each of the elements of damages as you believe from the evidence that she has sustained by reason of the motor vehicle wreck, or that she is reasonably certain to incur hereafter.

Your award shall include compensation for losses that will fairly and reasonably compensate Susan Becker for whatever physical suffering you believe from the evidence she has sustained or is reasonably certain to endure hereafter as a direct result of the collision on October 1, 2020.

INSTRUCTION NO. 10

You will determine from the evidence the sum or sums of money that will fairly and reasonably compensate Plaintiff, Susan Becker, for the element of damages listed below as you believe from the evidence she has sustained by reason of the motor vehicle wreck or is reasonably certain to incur hereafter.

Past medical expenses and treatment
(no less than \$17,149.40 but not to exceed \$17,449.40): \$ 17,449.40

Future medical expenses and treatment
(no less than \$16,733.52, but not to exceed \$97,181.66): \$ 63,000.00

Clabrina Willard
(Foreperson, if unanimous)

(Nine or more who agree, if not unanimous)

INSTRUCTION NO. 11

You will determine from the evidence the sum or sums of money that will fairly and reasonably compensate Plaintiff, Susan Becker, for such loss of wages and income as you believe from the evidence she sustained directly reason of her injuries.

Lost wages (not to exceed \$1,515.00): \$ 1515.00

Christina Willard
(Foreperson, if unanimous)

(Nine or more who agree, if not unanimous)

INSTRUCTION NO. 12

You will determine from the evidence the sum or sums of money that will fairly and reasonably compensate Susan Becker for the element of damages listed below as you believe from the evidence she has sustained by reason of the motor vehicle wreck.

Past physical pain and suffering (not to exceed \$500,000.00): \$ 100,000.00

Future physical pain and suffering (not to exceed: \$1,000,000.00): \$ 275,000.00

(Foreperson, if unanimous)

Tabina Willard
(Nine or more who agree, if not unanimous)

Thas Rice

William P. Blodgett

Robert A Dixon

Mary S. Conner

Danelle A. Moseley

Steph Brown

Samuel Kern

Al Cain

Genevieve L. Guesee

PLEASE NOTIFY THE SHERIFF AND RETURN TO THE COURTROOM

Melanie H. Brummer
JUDGE, MELANIE H. BRUMMER