

COMMONWEALTH OF KENTUCKY

NO. 21-CI-002365

JEFFERSON CIRCUIT COURT
JUDGE MELISSA LOGAN BELLOWS
DIVISION SEVEN (7)

DAVID BURNETT

PLAINTIFF

vs.

INSTRUCTIONS TO THE JURY

ETHAN SMITH

DEFENDANT

*** **

INTRODUCTION

Now that you have heard all of the evidence, it is the Court's duty to instruct you on the law that applies to this case. You must decide this case solely upon the evidence and these Instructions. In considering the evidence, you alone determine the credibility of the witnesses and the weight of the evidence. You should use your common sense in considering the evidence. You may draw reasonable inferences from the evidence. However, you should not indulge in guesswork or speculation.

After the Court has instructed you, the attorneys will make their final arguments. These arguments are not to be considered as either evidence in the case or as your instructions on the law. Nevertheless, these final arguments are intended to help you properly understand the issues, the evidence, and the applicable law. Please give them your close attention.

In making their final arguments, the attorneys will refer to the testimony as they recall it. The attorneys will not knowingly misstate the testimony, but if their recollection

of the testimony differs from yours, you should rely on your own recollection of the testimony.

INSTRUCTION NO. 1

Your first job will be to choose a foreperson who will preside over your deliberations and speak for you in Court. Nine or more of you must agree in order to reach a verdict. The same nine jurors need not agree on each verdict. If your verdict is not unanimous, it must be signed by the nine or more who agree. If your verdict is unanimous, only your foreperson need sign.

INSTRUCTION NO. 2 – DEFINITIONS

“Ordinary Care” means such care as an ordinarily prudent person would exercise under the same or 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

Do you believe from the evidence that Plaintiff, David Burnett (hereinafter, "Burnett"), incurred charges in excess of \$1,000.00 for reasonably needed medical services as a result of the motor vehicle accident of May 7, 2019?

YES _____ NO ✓

FOREPERSON (if unanimous)

Jurors, if not unanimous:

1. Alexandria Grayson
2. Miranda Netherly
3. Matthew Maggard
4. Lesley D. Harte
5. Penny Amerton
6. Arthur Miller

7. Robert R. Strunger
8. Kenneth C. Sawyer
9. Nicole Forcier
10. Brittany Price
11. _____

Please proceed to Instruction No. 4.

INSTRUCTION NO. 4

It was the duty of Defendant, Ethan Smith (hereinafter, "Smith"), in driving a vehicle to exercise ordinary care for the safety of other persons using the road, and this general duty included the following specific duties:

- (1) To keep a lookout ahead for vehicles in front of them or so near their intended line of travel as to be in danger of collision;
- (2) To keep their vehicle under reasonable control;
- (3) To drive at a speed no greater than was reasonable and prudent, having regard for the traffic and for the condition and use of the roadway;
- (4) To exercise ordinary care to avoid collision with other vehicles.

Do you believe from the evidence that Smith failed in one or more of these duties, and such failure was a substantial factor in causing Burnett's alleged injuries?

YES _____ NO

Brittany Price
FOREPERSON (if unanimous)

Jurors, if not unanimous:

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

If you answered "NO" to this question, please enter your answer and inform the Deputy Sheriff that you have completed your deliberations. If you answered "YES" to this question, please proceed directly to Instruction No. 5.

INSTRUCTION NO. 5

If you answered Yes to Instruction No. 4, then you shall now determine from the evidence what sum of money would fairly and reasonably compensate Burnett for the following damages you believe he sustained as a direct result of the May 7, 2019, accident. You will only find such damages as you believe Burnett sustained on account of the injuries he sustained in the May 7, 2019, accident. In making your determination, state the total amount of money damages Burnett is entitled to recover. Awardable damages may include the following:

- (A) Reasonable and necessary past medical expenses
(not to exceed \$10,986.97, the amount claimed)

\$ _____

and/or

- (B) Past and present mental and physical pain and suffering, and
inconvenience
(not to exceed \$50,000, the amount claimed)

\$ _____

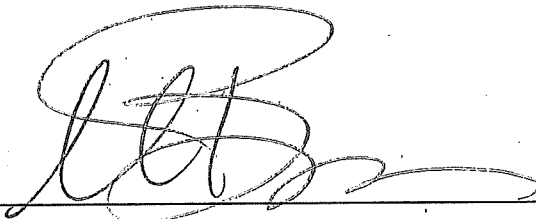
FOREPERSON (if unanimous)

Jurors, if not unanimous:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

- 7. _____
- 8. _____
- 9. _____
- 10. _____
- 11. _____

Please indicate your findings and inform the Deputy Sheriff that you are finished deliberating.



MELISSA LOGAN BELLOWS, JUDGE
Jefferson Circuit Court

8-22-2024
Date