

CAUSE NO. 82139-CV

ERIKA CADRIEL, INDIVIDUALLY AND	§	IN THE DISTRICT COURT OF
AS THE REPRESENTATIVE OF THE	§	
ESTATE OF JACOB MATTHEW	§	
CADRIEL AND AS NEXT FRIEND OF	§	
JACOB MATTHEW CADRIEL JR.	§	
	§	
vs.	§	BRAZORIA COUNTY, TEXAS
	§	
WOVEN METAL PRODUCTS, INC.	§	412TH JUDICIAL DISTRICT

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CHARGE OF THE COURT

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**LADIES AND GENTLEMEN OF THE JURY:**

After the closing arguments, you will go to the jury room to decide the case, answer the questions that are attached, and reach a verdict. You may discuss the case with other jurors only when you are all together in the jury room.

Remember my previous instructions: Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your cell phone or any other electronic device during your deliberations for any reason.

Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your

fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.

You must leave your notes with the bailiff when you are not deliberating. The bailiff will give your notes to me promptly after collecting them from you. I will make sure your notes are kept in a safe, secure location and not disclosed to anyone. After you complete your deliberations, the bailiff will collect your notes. When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.

Here are the instructions for answering the questions:

1. Do not let bias, prejudice, or sympathy play any part in your decision.
2. Base your answers only on what was presented in court and on the law that is in these instructions and questions. Do not consider or discuss any evidence that was not presented in the courtroom.
3. You are to make up your own minds about the facts. You are the sole judges of the credibility of the witnesses and the weight to give their testimony. But on matters of law, you must follow all of my instructions.
4. If my instructions use a word in a way that is different from its ordinary meaning, use the meaning I give you, which will be a proper legal definition.
5. All the questions and answers are important. No one should say that any question or answer is not important.
6. Answer "yes" or "no" to all questions unless you are told otherwise. A "yes" answer must be based on a preponderance of the evidence. Whenever a question requires an answer other than "yes" or "no," your answer must be based on a preponderance of the evidence.

The term "preponderance of the evidence" means the greater weight of credible evidence presented in this case. If you do not find that a preponderance of the evidence supports a "yes" answer, then answer "no." A preponderance of the evidence is not measured by the number of witnesses or by the number of documents admitted in evidence. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.

7. Do not decide who you think should win before you answer the questions and then just answer the questions to match your decision. Answer each question carefully without considering who will win. Do not discuss or consider the effect your answers will have.
8. Do not answer questions by drawing straws or by any method of chance.

9. Some questions might ask you for a dollar amount. Do not agree in advance to decide on a dollar amount by adding up each juror's amount and then figuring the average.
10. Do not trade your answers. For example, do not say, "I will answer this question your way if you answer another question my way."
11. The answers to the questions must be based on the decision of at least 10 of 12 jurors. The same 10 jurors must agree on every answer. Do not agree to be bound by a vote of anything less than 10 jurors, even if it would be a majority.

As I have said before, if you do not follow these instructions, you will be guilty of juror misconduct, and I might have to order a new trial and start this process over again. This would waste your time and the parties' money, and would require the taxpayers of this county to pay for another trial. If a juror breaks any of these rules, tell that person to stop and report it to me immediately.

In answering questions about damages, answer each question separately. Do not increase or reduce the amount in one answer because of your answer to any other question about damages. Do not speculate about what any party's ultimate recovery may or may not be. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment.

You are instructed that under Ch. 142 of the Texas Civil Practice and Remedies Code a cause of action may not be brought against an employer or premises owner solely for negligently hiring or failing to adequately supervise an employee, based on evidence that the employee has been convicted of an offense.

You are instructed that under Texas law, a premises owner does not have an affirmative duty to conduct a background check on persons on its premises.

**QUESTION NO. 1**

Did the negligence, if any, of Woven Metal Products, Inc. proximately cause the occurrence in question?

With respect to Woven Metal Products, Inc., it was negligent if—

1. Steven Young's presence was a condition that posed an unreasonable risk of harm, and
2. Woven Metal Products, Inc. knew or reasonably should have known of the danger, and
3. Woven Metal Products, Inc. failed to exercise ordinary care to protect Jacob Cadriel from the danger, by both failing to adequately warn Jacob Cadriel of the condition and failing to make that condition reasonably safe.

"Ordinary care," when used with respect to the conduct of Woven Metal Products, Inc. as an owner or occupier of a premises, means that degree of care that would be used by an owner or occupier of ordinary prudence under the same or similar circumstances.

"Occurrence," is defined as the confrontation between Steven Young and Jacob Cadriel that occurred on the afternoon of April 1, 2015.

"Proximate Cause," means a cause that was a substantial factor in bringing about the occurrence, and without which cause such occurrence would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the occurrence, or some similar occurrence, might reasonably result therefrom. There may be more than one proximate cause of an occurrence.

Answer "Yes" or "No."

Answer:

          yes

If you answered "Yes" to Question No. 1, then answer the following question. Otherwise, do not answer the following question.

**QUESTION NO. 2**

Was the conduct of Steven Young a proximate cause of the occurrence in question?

"Occurrence," is defined as the confrontation between Steven Young and Jacob Cadriel that occurred on the afternoon of April 1, 2015.

"Proximate Cause," means a cause that was a substantial factor in bringing about the occurrence, and without which cause such occurrence would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the occurrence, or some similar occurrence, might reasonably result therefrom. There may be more than one proximate cause of an occurrence.

Answer "Yes" or "No."

Answer:

yes

If you answered "Yes" to both Question No. 1 and Question No. 2, then answer the following question. Otherwise, do not answer the following question.

Assign percentages of responsibility only to those you found caused or contributed to cause the occurrence or injury. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsible to any one is not necessarily measured by the number of acts or omissions found.

**QUESTION NO. 3**

For those you found caused or contributed to cause the occurrence, find the percentage of responsibility attributable to each:

1.	Woven Metal Products, Inc.	<u>25</u> %
2.	Steven Young	<u>75</u> %
	Total	<u>100</u> %

**QUESTION NO. 4**

What sum of money, if paid now in cash, would have fairly and reasonably compensated Jacob Cadriel from the time of the shooting until the time of his death?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss, if any. Do not include interest on any amount of damages you find.

Answer separately, in dollars and cents, for damages, if any. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment.

1. Pain and mental anguish.

“Pain and mental anguish” means the conscious physical pain and emotional pain, torment, and suffering experienced by Jacob Cadriel before his death as a result of the occurrence in question.

Answer: \$ 55,000.00

2. Medical expenses

“Medical expenses” means the reasonable expense of the necessary medical and hospital care received by Jacob Cadriel for treatment of injuries sustained by him as a result of the occurrence in question.

Answer: \$ 34,000.00

**QUESTION NO. 5**

What sum of money, if paid now in cash, would fairly and reasonably compensate Erika Cadriel for her damages, if any, resulting from the death of Jacob Cadriel?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss, if any. Do not include interest on any amount of damages you find.

Answer separately, in dollars and cents, for damages, if any. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment.

Any recovery for physical pain, disfigurement, physical impairment, or medical care expenses are not subject to federal income taxes.

1. Pecuniary loss sustained in the past.

“Pecuniary loss” means the loss of the care, maintenance, support, services, advice, counsel, and reasonable contributions of a pecuniary value that Erika Cadriel, in reasonable probability, would have received from Jacob Cadriel had he lived.

Answer: \$ 32,000.00

2. Pecuniary loss that, in reasonable probability, will be sustained in the future.

Answer: \$ 550,000.00

3. Loss of companionship and society sustained in the past.

“Loss of companionship and society” means the loss of the positive benefits flowing from the love, comfort, companionship, and society that Erika Cadriel, in reasonable probability, would have received from Jacob Cadriel had he lived.

Answer: \$ 32,000.00



4. Loss of companionship and society that, in reasonable probability, will be sustained by Erika Cadriel in the future.

Answer: \$ 100,000.00

5. Mental anguish sustained in the past by Erika Cadriel.

“Mental anguish” means the emotional pain, torment, and suffering experienced by Erika Cadriel because of the death of Jacob Cadriel.

Answer: \$ 125,000.00

6. Mental anguish that, in reasonable probability, will be sustained by Erika Cadriel in the future.

Answer: \$ 100,000.00

In determining damages for elements 3, 4, 5, and 6, you may consider the relationship between Erika Cadriel and Jacob Cadriel, their living arrangements, any extended absences from one another, the harmony of their family relations, and their common interests and activities.

**QUESTION NO. 6**

What sum of money, if paid now in cash, would fairly and reasonably compensate Jacob Matthew Cadriel, Jr. for his damages, if any, resulting from the death of Jacob Cadriel?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award any sum of money on any element if you have otherwise, under some other element, awarded a sum of money for the same loss. That is, do not compensate twice for the same loss, if any. Do not include interest on any amount of damages you find.

Answer separately, in dollars and cents, for damages, if any. Any recovery will be determined by the court when it applies the law to your answers at the time of judgment.

Any recovery for physical pain, disfigurement, physical impairment, or medical care expenses are not subject to federal income taxes.

1. Pecuniary loss sustained in the past.

“Pecuniary loss” means the loss of the care, maintenance, support, services, advice, counsel, and reasonable contributions of a pecuniary value that Jacob Matthew Cadriel, Jr., in reasonable probability, would have received from Jacob Cadriel had he lived.

Answer: \$12,800.00

2. Pecuniary loss that, in reasonable probability, Jacob Matthew Cadriel, Jr. will sustain in the future.

Answer: \$115,200.00

3. Loss of companionship and society sustained in the past.

“Loss of companionship and society” means the loss of the positive benefits flowing from the love, comfort, companionship, and society that Jacob Matthew Cadriel, Jr., in reasonable probability, would have received from Jacob Cadriel had he lived.

Answer: \$12,800.00

4. Loss of companionship and society that, in reasonable probability, Jacob Matthew Cadriel, Jr. will sustain in the future.

Answer: \$40,000.<sup>00</sup>

5. Mental anguish sustained in the past.

“Mental anguish” means the emotional pain, torment, and suffering experienced by Jacob Matthew Cadriel, Jr. because of the death of Jacob Cadriel.

Answer: \$50,000.<sup>00</sup>

6. Mental anguish that, in reasonable probability, Jacob Matthew Cadriel, Jr. will sustain in the future.

Answer: \$40,000.<sup>00</sup>

In determining damages for elements 3, 4, 5, and 6, you may consider the relationship between Jacob Matthew Cadriel, Jr. and Jacob Cadriel, their living arrangements, any extended absences from one another, the harmony of their family relations, and their common interests and activities.

**Presiding Juror:**

1. When you go into the jury room to answer the questions, the first thing you will need to do is choose a presiding juror.
2. The presiding juror has these duties:
  - a. Have the complete charge read aloud if it will be helpful to your deliberations.
  - b. Preside over your deliberations. This means the presiding juror will manage the discussions, and see that you follow these instructions.
  - c. Give written questions or comments to the bailiff who will give them to the judge.
  - d. Write down the answers you agree on.
  - e. Get the signatures for the verdict certificate.
  - f. Notify the bailiff that you have reached a verdict.

Do you understand the duties of the presiding juror? If you do not, please tell me now.

**Instructions for Signing the Verdict Certificate:**

1. You may answer the questions on a vote of 10 jurors. The same 10 jurors must agree on every answer in the charge. This means you may not have one group of 10 jurors agree on one answer and a different group of 10 jurors agree on another answer.
2. If 10 jurors agree on every answer, those 10 jurors sign the verdict. If 11 jurors agree on every answer, those 11 jurors sign the verdict. If all 12 of you agree on every answer, you are unanimous and only the presiding juror signs the verdict.
3. All jurors should deliberate on every question. You may end up with all 12 of you agreeing on some answers, while only 10 or 11 of you agree on other answers. But when you sign the verdict, only those 10 (or 11) who agree on every answer will sign the verdict.

Do you understand these instructions? If you do not, please tell me now.

  
JUDGE PRESIDING

FILED  
at 9:12 o'clock A.M.

NOV 08 2016

  
Clerk of District Court Brazoria County Texas  
BY \_\_\_\_\_

Verdict Certificate

Check one:

Our verdict is unanimous. All 12 of us have agreed to each and every answer. The presiding juror has signed the certificate for all 12 of us.

Signature of Presiding Juror

Printed Name of Presiding Juror

Our verdict is not unanimous. Eleven of us have agreed to each and every answer and have signed the certificate below.

✓ Our verdict is not unanimous. Ten of us have agreed to each and every answer and have signed the certificate below.

PRINTED NAME

SIGNATURE

1. Gwen Lejsal

Gwen Lejsal

2. Jennifer Holmes

Jennifer Holmes

3. Ricardo Peña

Ricardo Peña

4. Kathleen Booker

Kathleen Booker

5. Larry Allison

Larry Allison

6. Jose Benavides

José Benavides

7. Harvey Yarborough

Harvey Yarborough

8. Anthony W. Bundick

Anthony W Bundick

9. Gina Walker

Gina Walker

10. Barbara Martinez

Barbara Martinez

11.

FILED at 12:40 o'clock P.M.

NOV 09 2016

Barbara Bundick Clerk of District Court Brazoria Co., Texas BY