

CONFIRMED FILE DATE: 4/12/2016

CAUSE NO. 2014-11694

RAQUEL SUAREZ, LUCILA SUAREZ
RAQUEL SUAREZ, RUBEN DARIO
SUAREZ, INDIVIDUALLY AND AS
HEIRS TO AND REPRESENTATIVES
OF THE ESTATE OF JOSE DARIO
SUAREZ, DECEASED

VS.

AUSTIN BRIDGE & ROAD, LP, DERR
& ISBELL CONSTRUCTION, LLC,
GENIE INDUSTRIES, INC., AUSTIN
COMMERCIAL, LP, FLINTCO, LLC,
TEREX CORPORATION

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IN THE DISTRICT COURT OF

FILED

**Chris Daniel
District Clerk**

APR 12 2016

Time: 4:30 PM
By: [Signature]
Deputy

HARRIS COUNTY, TEXAS

151ST JUDICIAL DISTRICT

CHARGE OF THE COURT

MEMBERS OF THE JURY:

After 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 words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your phone or any other electronic device during your deliberations for any reason. I will give you a number where others may contact you in case of an emergency.

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

RECORDER'S MEMORANDUM
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at the time of imaging

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 the evidence admitted in court and on the law that is in these instructions and questions. Do not consider or discuss any evidence that was not admitted 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 any 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, unless you are told otherwise. Whenever a question requires an answer other than "yes" or "no," your answer must be based on a preponderance of the evidence, unless you are told otherwise.

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. A fact may be established by direct evidence or by circumstantial evidence or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other facts proved.

8. 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.

9. Do not answer questions by drawing straws or by any method of chance.

10. 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.

11. Do not trade your answers. For example, do not say, "I will answer this question your way if you answer another question my way."

12. Unless otherwise instructed the answers to the questions must be based on the decision of at least 10 of the 12 jurors. The same 10 jurors must agree on every answer, unless otherwise instructed. 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.

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QUESTION NO. 1

Did any of those named below exercise some control over the manner in which the pedestrian bridge work was performed, other than the right to order the work to start or stop or to inspect progress or receive reports?

Answer "Yes" or "No" for each of the following.

- a. Austin Bridge & Road, L.P.

Answer: yes

- b. Austin Commercial, L.P.

Answer: no

- c. Flintco, LLC

Answer: no

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Answer Question No. 2 with respect to Austin Commercial, L.P., Austin Bridge & Road, L.P., or Flintco, LLC if you answered “Yes” with respect to that entity in answer to Question No. 1. Otherwise, only answer Question No. 2 with respect to Derr & Isbell Construction, LLC.

QUESTION NO. 2

Did the negligence, if any, of any of those named below proximately cause Jose Suarez’s death?

“Negligence” means—with respect to Austin Commercial, L.P., Austin Bridge & Road, L.P., or Flintco, LLC only—the failure to use ordinary care in exercising the control you found in answer to Question No. 1. That is, failing to do that which a company of ordinary prudence would have done under the same or similar circumstances or doing that which a company of ordinary prudence would not have done under the same or similar circumstances.

“Negligence” means—with respect to Derr & Isbell Construction, LLC only—the failure to use ordinary care. That is, failing to do that which a company of ordinary prudence would have done under the same or similar circumstances or doing that which a company of ordinary prudence would not have done under the same or similar circumstances.

“Ordinary Care” means that degree of care that would be used by a company of ordinary prudence under the same or similar circumstances.

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

Answer “Yes” or “No” for each of the following:

- a. Austin Bridge & Road, L.P.: yes
- b. Austin Commercial, L.P.: —
- c. Derr & Isbell Construction, LLC: No
- d. Flintco, LLC: —

QUESTION NO. 3

Was there a design defect in the aerial boom lift at the time it left the possession of Genie Industries, Inc. that was a producing cause of the death in question?

A "design defect" is a condition of the product that renders it unreasonably dangerous as designed, taking into consideration the utility of the product and the risk involved in its use. For a design defect to exist there must have been a safer alternative design.

"Safer alternative design" means a product design other than the one actually used that in reasonable probability—

- (1) Would have prevented or significantly reduced the risk of the death in question without substantially impairing the product's utility; and
- (2) Was economically and technologically feasible at the time the product left the control of Genie Industries, Inc. by the application of existing or reasonably achievable scientific knowledge.

"Producing cause means a cause that was a substantial factor in bringing about the death, and without which the death would not have occurred. There may be more than one producing cause.

"New and independent cause" means the act or omission of a separate and independent agency, not reasonably foreseeable, that destroys the causal connection, if any, between the act or omission inquired about and the occurrence in question and thereby becomes the immediate cause of such occurrence.

Answer "Yes" or "No."

Answer: no

QUESTION NO. 4

Was there a defect in the instructions of the aerial boom lift at the time it left the possession of Genie Industries, Inc. that was a producing cause of the death in question?

A “defect in the instructions” means the failure to give adequate instructions to avoid the product’s dangers that were known or by the application of reasonably developed human skill and foresight should have been known and which failure rendered the product unreasonably dangerous as marketed.

“Adequate instructions” means instructions given in a form that could reasonably be expected to catch the attention of a reasonably prudent company in the circumstances of the product’s use; and the content of the instructions must be comprehensible to the average user and must convey a fair indication of the nature and extent of the danger and how to avoid it to the mind of a reasonably prudent company.

An “unreasonably dangerous” product is one that is dangerous to an extent beyond that which would be contemplated by the ordinary user of the product with the ordinary knowledge common to the community as to the product’s characteristics.

“Producing cause means a cause that was a substantial factor in bringing about the death, and without which the death would not have occurred. There may be more than one producing cause.

“New and independent cause” means the act or omission of a separate and independent agency, not reasonably foreseeable, that destroys the causal connection, if any, between the act or omission inquired about and the occurrence in question and thereby becomes the immediate cause of such occurrence.

Answer “Yes” or “No.”

Answer: NO

If you answered "Yes" to any subpart of Question Nos. 2, 3, or 4, for more than one of those named below, 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 death. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to any one is not necessarily measured by the number of acts or omissions found. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

QUESTION NO. 5

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

The companies are listed in alphabetical order.

1.	Austin Bridge & Road, L.P.	<u>100</u>	%
2.	Austin Commercial, L.P.	<u>0</u>	%
3.	Derr & Isbell Construction, LLC	<u>0</u>	%
4.	Flintco, LLC	<u>0</u>	%
5.	Genie Industries, Inc.	<u>0</u>	%
	Total	<u>100</u>	%

If you answered "Yes" to any subpart of Question Nos. 2, 3, or 4, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 6

What sum of money would have fairly and reasonably compensated Jose Suarez for pain and mental anguish?

"Pain and mental anguish" means the conscious physical pain, emotional pain, torment and suffering experienced by Jose Suarez before his death as a result of the occurrence in question.

You are instructed that any monetary recovery for the element of damages below is not subject to federal income tax

Answer in dollars and cents for damages, if any.

Answer: \$5,000,000.00

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If you answered "Yes" to any subpart of Question Nos. 2, 3, or 4 then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 7

What sum of money, if paid now in cash, would fairly and reasonably compensate Raquel Soto Castillo Suarez (*wife*) for her damages, if any, resulting from the death of Jose Suarez?

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.

You are instructed that any monetary recovery for the element of damages below is not subject to federal income tax.

Answer separately, in dollars and cents, for damages, if any.

1. Jose Suarez's lost earning capacity in the past.

Answer: 60,000.00

2. Jose Suarez's lost earning capacity in the future.

Answer: 340,000.00

3. Loss of household services in the past.

Answer: 20,000.00

4. Loss of household services in the future.

Answer: 300,000.00

5. 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 Raquel Soto Castillo Suarez, in reasonable probability, would have received from Jose Suarez had he lived.

Answer: \$2,000,000.00

6. Loss of companionship and society that, in reasonable probability, will be sustained in the future.

Answer: \$1,500,000.00

7. Mental anguish sustained in the past.

“Mental anguish” means the emotional pain, torment, and suffering experienced by Raquel Soto Castillo Suarez because of the death of Jose Suarez.

Answer: \$2,000,000.00

8. Mental anguish that, in reasonable probability, will be sustained in the future.

Answer: \$1,500,000.00

In determining damages for elements 5, 6, 7, and 8, you may consider the relationship between Raquel Soto Castillo Suarez and Jose Suarez, their living arrangements, any extended absences from one another, the harmony of their family relations, and their common interests and activities.

If you answered "Yes" to any subpart of Question Nos. 2, 3, or 4, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 8

What sum of money, if paid now in cash, would fairly and reasonably compensate Lucila Suarez (*daughter*) for her damages, if any, resulting from the death of Jose Suarez?

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.

You are instructed that any monetary recovery for the element of damages below is not subject to federal income tax

Answer separately, in dollars and cents, for damages, if any.

1. 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 Lucila Suarez, in reasonable probability, would have received from Jose Suarez had he lived.

Answer: \$ 250,000.00

2. Loss of companionship and society that, in reasonable probability, Lucila Suarez will sustain in the future.

Answer: \$ 250,000.00

3. Mental anguish sustained in the past.

"Mental anguish" means the emotional pain, torment, and suffering experienced by Lucila Suarez because of the death of Jose Suarez.

Answer: ~~\$ 250,000.00~~ \$ 250,000.00

4. Mental anguish that, in reasonable probability, will be sustained in the future.

Answer: \$250,000.00

In determining damages for elements 1, 2, 3, and 4, you may consider the relationship between Lucila Suarez and Jose Suarez, their living arrangements, any extended absences from one another, the harmony of their family relations, and their common interests and activities.

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If you answered "Yes" to any subpart of Question Nos. 2, 3, or 4, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 9

What sum of money, if paid now in cash, would fairly and reasonably compensate Raquel Suarez (*daughter*) for her damages, if any, resulting from the death of Jose Suarez?

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.

You are instructed that any monetary recovery for the element of damages below is not subject to federal income tax

Answer separately, in dollars and cents, for damages, if any.

1. 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 Raquel Suarez, in reasonable probability, would have received from Jose Suarez had he lived.

Answer: \$250,000.00

2. Loss of companionship and society that, in reasonable probability, Raquel Suarez will sustain in the future.

Answer: \$250,000.00

3. Mental anguish sustained in the past.

"Mental anguish" means the emotional pain, torment, and suffering experienced by Raquel Suarez because of the death of Jose Suarez.

Answer: \$250,000.00

4. Mental anguish that, in reasonable probability, will be sustained in the future.

Answer: \$250,000.00

In determining damages for elements 1, 2, 3, and 4, you may consider the relationship between Raquel Suarez and Jose Suarez, their living arrangements, any extended absences from one another, the harmony of their family relations, and their common interests and activities.

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If you answered "Yes" to any subpart of Question Nos. 2, 3, or 4, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 10

What sum of money, if paid now in cash, would fairly and reasonably compensate Ruben Dario Suarez (*son*) for his damages, if any, resulting from the death of Jose Suarez?

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.

You are instructed that any monetary recovery for the element of damages below is not subject to federal income tax

Answer separately, in dollars and cents, for damages, if any.

1. 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 Ruben Dario Suarez, in reasonable probability, would have received from Jose Suarez had he lived.

Answer: \$ 250,000.00

2. Loss of companionship and society that, in reasonable probability, Ruben Dario Suarez will sustain in the future.

Answer: \$ 250,000.00

3. Mental anguish sustained in the past.

"Mental anguish" means the emotional pain, torment, and suffering experienced by Ruben Dario Suarez because of the death of Jose Suarez.

Answer: \$ 250,000.00

4. Mental anguish that, in reasonable probability, will be sustained in the future.

Answer: \$ 250,000.00

In determining damages for elements 1, 2, 3, and 4, you may consider the relationship between Ruben Dario Suarez and Jose Suarez, their living arrangements, any extended absences from one another, the harmony of their family relations, and their common interests and activities.

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Answer the following question regarding Austin Bridge & Road, L.P. only if you unanimously answered "Yes" regarding Austin Bridge & Road, L.P. in answer to Question No. 2. Otherwise, do not answer the following question.

To answer Yes" to the following question, your answer must be unanimous. You may answer "No" to the following question only upon a vote of ten or more jurors. Otherwise, you must not answer the following question.

QUESTION NO. 11

Do you find by clear and convincing evidence that the harm to Jose Suarez resulted from gross negligence by either of those named below, attributable to Austin Bridge & Road, L.P.?

"Clear and convincing evidence" means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established.

"Gross negligence" means an act or omission by Anthony Garcia:

1. which when viewed objectively from the standpoint of Anthony Garcia at the time of its occurrence involves an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and
2. of which Anthony Garcia has actual, subjective awareness of the risk involved, but nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others.

"Gross negligence" also means an act or omission by Bob Beam:

1. which when viewed objectively from the standpoint of Bob Beam at the time of its occurrence involves an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and
2. of which Bob Beam has actual, subjective awareness of the risk involved, but nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others.

You are further instructed that Austin Bridge & Road, L.P. may be grossly negligent because of an act by Anthony Garcia or Bob Beam if, but only if—

1. Austin Bridge & Road, L.P. authorized the doing and the manner of the act, or

2. Anthony Garcia or Bob Beam was unfit and Austin Bridge & Road, L.P. was reckless in employing him, or
3. Anthony Garcia or Bob Beam was employed as a vice-principal or in a managerial capacity and was acting in the scope of employment, or
4. Austin Bridge & Road, L.P. or a vice-principal or a manager of Austin Bridge & Road, L.P. ratified or approved the act.

A person is a "vice-principal" if—

1. that person is a corporate officer; or
2. that person has authority to employ, direct, and discharge an employee of Austin Bridge & Road, L.P.; or
3. that person is engaged in the performance of nondelegable or absolute duties of Austin Bridge & Road, L.P.; or
4. Austin Bridge & Road, L.P. has confided to that person the management of the whole or a department or division of the business of Austin Bridge & Road, L.P.

A person is a manager or is employed in a managerial capacity if—

1. that person has authority to employ, direct, and discharge an employee of Austin Bridge & Road, L.P.; or
2. Austin Bridge & Road, L.P. has confided to that person the management of the whole or a department or division of the business of Austin Bridge & Road, L.P.

Answer "Yes" or "No" for each of the following:

1. Anthony Garcia

Answer: n/a

2. Bob Beam

Answer: yes

Answer the following question regarding Derr & Isbell Construction, LLC only if you unanimously answered “Yes” regarding Derr & Isbell Construction, LLC in answer to Question No. 2. Otherwise, do not answer the following question.

To answer Yes” to the following question, your answer must be unanimous. You may answer “No” to the following question only upon a vote of ten or more jurors. Otherwise, you must not answer the following question.

QUESTION NO. 12

Do you find by clear and convincing evidence that the harm to Jose Suarez resulted from gross negligence attributable to Derr & Isbell Construction, LLC?

“Clear and convincing evidence” means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established.

“Gross negligence” means an act or omission by David Nelson,

1. which when viewed objectively from the standpoint of David Nelson at the time of its occurrence involves an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and
2. of which David Nelson has actual, subjective awareness of the risk involved, but nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others.

You are further instructed that Derr & Isbell Construction, LLC may be grossly negligent because of an act by David Nelson if, but only if—

1. Derr & Isbell Construction, LLC authorized the doing and the manner of the act, or
2. David Nelson was unfit and Derr & Isbell Construction, LLC was reckless in employing him, or
3. David Nelson was employed as a vice-principal or in a managerial capacity and was acting in the scope of employment, or
4. Derr & Isbell Construction, LLC or a vice-principal or a manager of Derr & Isbell Construction, LLC ratified or approved the act.

A person is a “vice-principal” if—

1. that person is a corporate officer; or
2. that person has authority to employ, direct, and discharge an employee of Derr & Isbell Construction, LLC; or
3. that person is engaged in the performance of nondelegable or absolute duties of Derr & Isbell Construction, LLC; or
4. Derr & Isbell Construction, LLC has confided to that person the management of the whole or a department or division of the business of Derr & Isbell Construction, LLC.

A person is a manager or is employed in a managerial capacity if—

1. that person has authority to employ, direct, and discharge an employee of Derr & Isbell Construction, LLC; or
2. Derr & Isbell Construction, LLC has confided to that person the management of the whole or a department or division of the business of Derr & Isbell Construction, LLC.

Answer “Yes” or “No.”

Answer: n/a

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Answer the following question regarding Flintco, LLC only if you unanimously answered “Yes” regarding Flintco, LLC in answer to Question No. 2. Otherwise, do not answer the following question regarding that entity.

To answer “Yes” to the following question, your answer must be unanimous. You may answer “No” to the following question only upon a vote of ten or more jurors. Otherwise, you must not answer the following question.

QUESTION NO. 13

Do you find by clear and convincing evidence that the harm to Jose Suarez resulted from gross negligence attributable to Flintco, LLC?

“Clear and convincing evidence” means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established.

“Gross negligence” means an act or omission by Steve Jordan,

1. which when viewed objectively from the standpoint of Steve Jordan at the time of its occurrence involves an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and
2. of which Steve Jordan has actual, subjective awareness of the risk involved, but nevertheless proceeds with conscious indifference to the rights, safety, or welfare of others.

You are further instructed that Flintco, LLC may be grossly negligent because of an act by Steve Jordan if, but only if—

1. Flintco, LLC authorized the doing and the manner of the act, or
2. Steve Jordan was unfit and Flintco, LLC was reckless in employing him, or
3. Steve Jordan was employed as a vice-principal or in a managerial capacity and was acting in the scope of employment, or
4. Flintco, LLC or a vice-principal or a manager of Flintco, LLC ratified or approved the act.

A person is a “vice-principal” if—

1. that person is a corporate officer; or

2. that person has authority to employ, direct, and discharge an employee of Flintco, LLC; or
3. that person is engaged in the performance of nondelegable or absolute duties of Flintco, LLC; or
4. Flintco, LLC has confided to that person the management of the whole or a department or division of the business of Flintco, LLC.

A person is a manager or is employed in a managerial capacity if—

1. that person has authority to employ, direct, and discharge an employee of Flintco, LLC; or
2. Flintco, LLC has confided to that person the management of the whole or a department or division of the business of Flintco, LLC.

Answer “Yes” or “No.”

Answer: n/a

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Answer the following question regarding Austin Bridge & Road, L.P. only if you unanimously answered "Yes" to any subpart in Question No. 11 regarding Austin Bridge & Road, L.P. Otherwise, do not answer the following question regarding Austin Bridge & Road, L.P.

QUESTION NO. 14

You are instructed that you must unanimously agree on the amount of any award of exemplary damages.

^{we} What sum of money, if any, should be assessed against Austin Bridge & Road, L.P., ~~and~~ and awarded to Plaintiffs as exemplary damages for the conduct found in response to Question No. 11?

"Exemplary damages" means any damages awarded as a penalty or by way of punishment but not for compensatory purposes. Exemplary damages includes punitive damages.

Factors to consider in awarding exemplary damages, if any, are—

1. The nature of the wrong.
2. The character of the conduct involved.
3. The degree of culpability of the wrongdoer.
4. The situation and sensibilities of the parties concerned.
5. The extent to which such conduct offends a public sense of justice and propriety.

Answer in dollars and cents, if any.

Answer: \$2,000,000.00

Answer the following question regarding Derr & Isbell Construction, LLC only if you unanimously answered "Yes" to Question No. 12 regarding Derr & Isbell Construction, LLC. Otherwise, do not answer the following question regarding Derr & Isbell Construction, LLC.

QUESTION NO. 15

You are instructed that you must unanimously agree on the amount of any award of exemplary damages.

What sum of money, if any, should be assessed against Derr & Isbell Construction, LLC and awarded to Plaintiffs as exemplary damages for the conduct found in response to Question No. 12?

"Exemplary damages" means any damages awarded as a penalty or by way of punishment but not for compensatory purposes. Exemplary damages includes punitive damages.

Factors to consider in awarding exemplary damages, if any, are—

1. The nature of the wrong.
2. The character of the conduct involved.
3. The degree of culpability of the wrongdoer.
4. The situation and sensibilities of the parties concerned.
5. The extent to which such conduct offends a public sense of justice and propriety.

Answer in dollars and cents, if any.

Answer: n/a

Answer the following question regarding Flintco, LLC only if you unanimously answered “Yes” to Question No. 13 regarding Flintco, LLC. Otherwise, do not answer the following question regarding Flintco, LLC.

QUESTION NO. 16

You are instructed that you must unanimously agree on the amount of any award of exemplary damages.

What sum of money, if any, should be assessed against Flintco, LLC and awarded to Plaintiffs as exemplary damages for the conduct found in response to Question No. 13?

“Exemplary damages” means any damages awarded as a penalty or by way of punishment but not for compensatory purposes. Exemplary damages includes punitive damages.

Factors to consider in awarding exemplary damages, if any, are—

1. The nature of the wrong.
2. The character of the conduct involved.
3. The degree of culpability of the wrongdoer.
4. The situation and sensibilities of the parties concerned.
5. The extent to which such conduct offends a public sense of justice and propriety.

Answer in dollars and cents, if any.

Answer: n/a

If, in your answer to Question Nos. 14, 15, or 16, you entered any amount of exemplary damages, then answer the following question. Otherwise, do not answer the following question.

QUESTION 17

Ma Raquel Soto
Castillo Suarez
^

How do you apportion the exemplary damages between Jose Suarez, Lucila Suarez, Raquel Suarez, and Ruben Dario Suarez?

Answer by stating a percentage for each person named below. The percentages you find must total 100 percent.

- | | | | |
|----|---|------------|---|
| 1. | Jose Suarez | <u>20</u> | |
| 2. | Raquel Soto Castillo Suarez (<i>wife</i>) | <u>35</u> | % |
| 3. | Lucila Suarez (<i>daughter</i>) | <u>15</u> | % |
| 4. | Raquel Suarez (<i>daughter</i>) | <u>15</u> | % |
| 5. | Ruben Dario Suarez (<i>son</i>) | <u>15</u> | % |
| | Total | <u>100</u> | % |

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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, meaning 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; and
 - 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.

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Instructions for Signing the Verdict Certificate:

1. Unless otherwise instructed, you may answer the questions on a vote of ten jurors. The same ten jurors must agree on every answer in the charge. This means you may not have one group of ten jurors agree on one answer and a different group of ten jurors agree on another answer.

2. If ten jurors agree on every answer, those ten jurors sign the verdict. If eleven jurors agree on every answer, those eleven jurors sign the verdict. If all twelve 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 twelve of you agreeing on some answers, while only ten or eleven of you agree on other answers. But when you sign the verdict, only those ten who agree on every answer will sign the verdict.

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

APR 14 2016



JUDGE PRESIDING

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Verdict Certificate

Check One:

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

Signature of Presiding Juror
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.

	SIGNATURE	PRINTED NAME
1.	Betty Q. Lennon	BETTY Q. LENNON
2.	Constance Pielech	Constance Pielech
3.	Jane Malashock	JANE MALASHOCK
4.	Robert Jimenez	Robert Jimenez
5.	Robert Cervantes	Robert Cervantes
6.	Jasmine Turner	Jasmine Turner
7.	S. Sorkini Neseid	SADER SORIKINI NESEID
8.	Chenteh Alan Yiu	Chenteh Alan Yiu
9.	NOMIACI KAMAKURA	NOMIACI KAMAKURA
10.	Whitney Fulk	Whitney Fulk
11.		

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Additional Certificate

I certify that the jury was unanimous in answering the following questions. All twelve of us agreed to each of the answers. The presiding juror has signed the certificate for all twelve of us.

- Question 2a *yes*
- Question 2c *yes*
- Question 2d *yes*
- Question 11 *Bob Beam - yes*
- Question 12 *—*
- Question 13 *—*
- Question 14 *yes*
- Question 15 *—*
- Question 16 *—*

Betty Q. Lennon
Signature of Presiding Juror

Betty Q. LENNON
Printed Name of Presiding Juror

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