

CAUSE NO. DC-15-09782-K

**MATTHEW SEEBACHAN AND MARCIA
SEEBACHAN,**

Plaintiff,

v.

**JOHN EAGLE COLLISION CENTER,
EAGLE IMPORTS, LP A/K/A JOHN
EAGLE COLLISION CENTER A/K/A JOHN
EAGLE LINCON-MERCURY-ASTON
MARTIN, L.P.,**

Defendant.

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IN THE DISTRICT COURT

192nd JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

CHARGE OF THE COURT

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 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 reasons.

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 your 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 a way that is different from its ordinary meaning, use the meaning I give you, which will be a proper legal definition.
5. All of 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 the 12 jurors. The same 10 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.

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.

"Ordinary care" means that degree of care which would be used by a person of ordinary prudence under the same or similar circumstances.

"Negligence" means the failure to use ordinary care; that is to say, failure to do that which a person of ordinary prudence would have done under the same or similar circumstances, or doing that which a person of ordinary prudence would not have done 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 person using ordinary care would have foreseen that the event, or some similar event, might reasonably result therefrom. There may be more than one proximate cause of an event.

QUESTION NUMBER 1

Did the negligence, if any, of those named below proximately cause the injuries to Matthew Seebachan and Marcia Seebachan?

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

a. John Eagle Collision Center

Y

b. Jack Jordan

Y

If you have answered "Yes" as to John Eagle Collision Center in Question Number 1, then answer the following questions. Otherwise, do not answer the following questions.

QUESTION NUMBER 2

Assign percentages of responsibility only to those entities or persons you found caused or contributed to cause the injuries to Matthew Seebachan and Marcia Seebachan in Question No. 1. The percentages you find below must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to an entity or person is not necessarily measured by the number of acts or omissions found. The percentage attributed to any one entity or person need not be the same percentage attributed to that entity or person in answering another question.

For each entity or person you found caused or contributed to cause the injuries to Matthew Seebachan and Marcia Seebachan, find the percentage of responsibility attributable to each:

a. John Eagle Collision Center 75 %

b. Jack Jordan 25 %

TOTAL 100%

QUESTION NUMBER 3

What sum of money, if paid now in cash, would fairly and reasonably compensate Matthew Seebachan for his injuries, if any, that resulted from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not include damages for one element in any other element. Do not include interest on any amount of damages you find.

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

- a. Physical pain and mental anguish sustained in the past.

Answer: \$ 4 million

- b. Physical pain and mental anguish that, in reasonable probability, Matthew Seebachan will sustain in the future.

Answer: \$ 6,832 m. 10¢

- c. Disfigurement sustained in the past.

Answer: \$ 3 mil

- d. Disfigurement that, in reasonable probability, Matthew Seebachan will sustain in the future.

Answer: \$ 3 mil

- e. Physical impairment sustained in the past.

Answer: \$ 4.5 mil

- f. Physical impairment that, in reasonable probability, Matthew Seebachan will sustain in the future.

Answer: \$ 2 m, 250K, 10

- g. Medical care expenses in the past.

Answer: \$ 625K

- h. Medical care expenses that, in reasonable probability, Matthew Seebachan will incur in the future.

Answer: \$ 600K

- i. Lost wages in the past.

Answer: \$ 75K

- j. Loss of earning capacity that, in reasonable probability, Matthew Seebachan will sustain in the future.

Answer: \$ 1m

QUESTION NUMBER 4

What sum of money, if paid now in cash, would fairly and reasonably compensate Marcia Seebachan for her injuries, if any, that resulted from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not include damages for one element in any other element. Do not include interest on any amount of damages you find.

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

- a. Physical pain and mental anguish sustained in the past.

Answer: \$ 2.5 m

- b. Physical pain and mental anguish that, in reasonable probability, Marcia Seebachan will sustain in the future.

Answer: \$ 1 ml

- c. Disfigurement sustained in the past.

Answer: \$ 1 mil

- d. Disfigurement that, in reasonable probability, Marcia Seebachan will sustain in the future.

Answer: \$ 500 k

- e. Physical impairment sustained in the past.

Answer: \$ 250 k

- f. Physical impairment that, in reasonable probability, Marcia Seebachan will sustain in the future.

Answer: \$ 125 R

- g. Medical care expenses in the past.

Answer: \$ 432,474.51

- h. Medical care expenses that, in reasonable probability, Marcia Seebachan will incur in the future.

Answer: \$ 50K

QUESTION NUMBER 5

What sum of money, if paid now in cash, do you find would fairly and reasonably compensate Matthew Seebachan for injuries, if any, to his wife, Marcia Seebachan, that resulted from the occurrence in question?

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.

- a. Loss of household services sustained in the past.

"Household services" means the performance of household and domestic duties by a spouse to the marriage.

Answer: \$ 5K

- b. Loss of household services that, in reasonable probability, Matthew Seebachan will sustain in the future.

Answer: \$ 0

- c. Loss of consortium sustained in the past.

"Consortium" means the mutual right of the husband and wife to that affection, solace, comfort, companionship, society, assistance, sexual relations, emotional support, love, and felicity necessary to a successful marriage.

Answer: \$ 750K

- d. Loss of consortium that, in reasonable probability, Matthew Seebachan will sustain in the future.

Answer: \$ 125K

QUESTION NUMBER 6

What sum of money, if paid now in cash, do you find would fairly and reasonably compensate Marcia Seebachan for injuries, if any, to her husband, Matthew Seebachan, that resulted from the occurrence in question?

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.

- a. Loss of household services sustained in the past.

“Household services” means the performance of household and domestic duties by a spouse to the marriage.

Answer: \$ 15K

- b. Loss of household services that, in reasonable probability, Marcia Seebachan will sustain in the future.

Answer: \$ 300K

- c. Loss of consortium sustained in the past.

“Consortium” means the mutual right of the husband and wife to that affection, solace, comfort, companionship, society, assistance, sexual relations, emotional support, love, and felicity necessary to a successful marriage.

Answer: \$ 4mil

- d. Loss of consortium that, in reasonable probability, Marcia Seebachan will sustain in the future.

Answer: \$ 5mil

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.

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 the 10 who agree on every answer will sign the verdict.

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

JUDGE PRESIDING

Verdict Certificate

____ 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.

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 signature below.

Jurors Signatures

Jurors' Printed Names

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____
