

CAUSE NO 2021-220

JOSEPH WAYNE COLLINS	§	IN THE DISTRICT COURT
	§	
V	§	RUSK COUNTY, TEXAS
	§	
STATE FARM MUTUAL AUTOMOBILE	§	
INSURANCE COMPANY	§	4 TH JUDICIAL DISTRICT

CHARGE OF THE COURT

MEMBERS 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 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 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 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 ten of the twelve jurors The same ten jurors must agree on every answer Do not agree to be bound by a vote of anything less than ten 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

DEFINITIONS AND INSTRUCTIONS

"FAILURE TO MITIGATE" means the exclusion of any amount of damages for any condition resulting from the failure, if any, of Joseph Wayne Collins to have acted as a person of ordinary prudence would have done under the same or similar circumstances in caring for and treating the subject injury, if any, that resulted from the occurrence in question

QUESTION 1.

Did **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY** fail to comply with the insurance policy agreement?

Answer "Yes" or "No "

ANSWER: Yes

QUESTION 2.

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate **JOSEPH WAYNE COLLINS** for his unpaid damages, if any, that were caused by or resulted from the covered loss which occurred to his Toyota Tacoma truck on April 24, 2020?

- a Amounts wrongfully deducted from the proceeds due and payable under the policy, if any

Answer in dollars and cents, if any

ANSWER: 1751.96

- b Loss of use of the truck caused by the failure of **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY** to comply with its policy agreement, if any

Answer in dollars and cents, if any

ANSWER: -0-

- c The value of the time expended by **JOSEPH WAYNE COLLINS** in attempting to obtain the performance by **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY** of its agreement, if any

Answer in dollars and cents, if any

ANSWER: -0-

- d Additional expense to **JOSEPH WAYNE COLLINS** to obtain alternative transportation which he would not have been required to expend but for **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S** failure to comply with its policy agreement, if any

Answer in dollars and cents, if any

ANSWER: 893.13

QUESTION 3.

Did **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY** engage in any unfair or deceptive act or practices that was a producing cause of damages to **JOSEPH WAYNE COLLINS**?

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

“Unfair or deceptive act or practice” means any of the following

- a) Making or causing to be made any statement misrepresenting the terms, benefits, or advantages of any insurance policy, or
- b) Making, or directly or indirectly causing to be made, an assertion, representation, or statement with respect to insurance that was untrue, deceptive, or misleading, or
- c) Misrepresenting to a claimant a material fact or policy provision relating to coverage at issue, or
- d) Failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which the insurer’s liability has become reasonably clear, or
- e) Failing to promptly provide to a policyholder a reasonable explanation of the basis in the policy, in relation to the facts or applicable law, for the insurer’s denial of a claim or the insurer’s offer of a compromise settlement of a claim, or
- f) Refusing to pay a claim without conducting a reasonable investigation with respect to the claim, or
- g) Making any misrepresentation relating to an insurance policy by-
 - 1 Making any untrue statement of a material fact, or
 - 2 Failing to state a material fact that is necessary to make other statements not misleading, considering the circumstances under which the statements are made, or
 - 3 Making any statement in manner that would mislead a reasonably prudent person to a false conclusion of a material fact

Answer “Yes” or “No ”

ANSWER: Yes

QUESTION 4.

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate **JOSEPH WAYNE COLLINS** for his damages, if any, that were caused by the conduct you have found in response to Questions 3, if any?

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. Do not add any amount for interest on damages, if any.

Answer separately in dollars and cents for damages, if any

1 The reasonable value of the time spent by **JOSEPH WAYNE COLLINS** correcting or attempting to correct the problems caused by the wrongful conduct of **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY**, if any

Answer 1,600

2 Loss of use of the insured vehicle

Consider the reasonable value of the loss of use of the property after the time reasonably needed to repair the property, until the time it was repaired

Answer -0-

3 **JOSEPH WAYNE COLLINS'** mental anguish sustained in the past if any

Answer -0-

4 **JOSEPH WAYNE COLLINS'** mental anguish that, in reasonable probability, will be sustained in the future, if any

Answer -0-

If you answered "Yes" to Question 3, then answer the following question. Otherwise, do not answer the following question.

QUESTION 5.

Did **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY** engage in any such conduct knowingly and/or intentionally?

"Knowingly" means actual awareness of the falsity, deception, or unfairness, or deceptiveness of the act or practice on which a claim for damages is based. Actual awareness may be inferred where objective manifestations indicate that a person acted with actual awareness.

"Intentionally" means actual awareness of the falsity, deception, or unfairness of the conduct in question. Specific intent may be inferred where objective manifestations indicate that a person acted intentionally or may be inferred from facts showing that the person acted with such flagrant disregard of prudent and fair business practices that the person should be treated as having acted intentionally.

In answering this question, consider only the conduct that you have found was a producing cause of damage to **JOSEPH WAYNE COLLINS**.

Answer "Yes" or "No."

ANSWER: _____

Yes

If you answered "Yes" to Question 5, then answer the following question. Otherwise, do not answer the following question.

QUESTION 6.

What sum of money, if any, in addition to actual damages, should be awarded to **JOSEPH WAYNE COLLINS** against **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY** because **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY'S** conduct was committed knowingly and/or intentionally?

Answer in dollars and cents, if any

ANSWER: 175,487.50

QUESTION 7.

Did **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY** fail to pay **JOSEPH WAYNE COLLINS'** all of the proceeds payable on his claim within sixty days of receiving all items, statements, and forms it reasonably requested from **JOSEPH WAYNE COLLINS** that were necessary to decide whether to accept or reject the claim?

Answer "Yes" or "No "

ANSWER: _____

Yes

QUESTION 8.

By what date had **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY** received all items, statements, and forms it reasonably requested from **JOSEPH WAYNE COLLINS** that were necessary to decide whether to accept or reject the claim?

Answer with a date in the blank below

Answer with a date in the blank below

ANSWER: July 13, 2020

QUESTION 9.

By what date did **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY** notify **JOSEPH WAYNE COLLINS** in writing that **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY** would pay all or part of **JOSEPH WAYNE COLLINS'** claim?

Answer with a date in the blank below

ANSWER: July 13, 2020

QUESTION 10.

Did **STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY** fail to timely pay **JOSEPH WAYNE COLLINS'** claim?

An insurer "fails to timely pay" if, within five business days of notifying the claimant in writing that it will pay all or part of a claim, the insurer fails to pay as stated in the writing

"Business day" means every day except Saturday *or* Sunday

Answer "Yes" or "No "

ANSWER: No

QUESTION 11.

What is a reasonable fee for the necessary legal services of **JOSEPH WAYNE COLLINS'** attorney for the breach of contract claim?

A reasonable fee is the reasonable hours worked, and to be worked, multiplied by a reasonable hourly rate for that work

Do not include fees that relate solely to any other claim

Answer with an amount in dollars and cents for each of the following

1 For representation in the trial court

ANSWER: 68,785

2 For representation in the court of appeals

ANSWER: 10,000

3 For representation at the petition for review stage in the Supreme Court of Texas

ANSWER: 10,000

4 For representation at the merits briefing stage in the Supreme Court of Texas

ANSWER: 10,000

5 For representation through oral argument and the completion of proceedings in the Supreme Court of Texas

ANSWER: 10,000

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

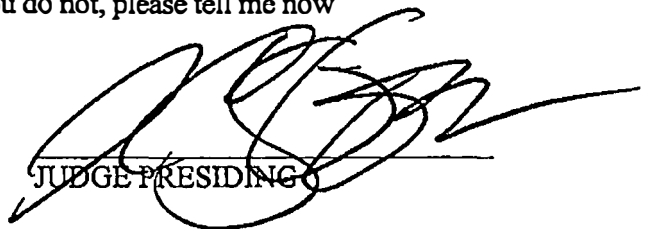
Do you understand the duties of the presiding juror? If you do not, please tell me now

Instructions for Signing the Verdict Certificate:

- 1 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.
- 3 If all twelve of you agree on every answer, you are unanimous and only the presiding juror signs the verdict.
- 4 All jurors should deliberate on every question. You may end up with all twelve of you agreeing on some answers, while only ten 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

FILED
In the District Court of
Rusk County Texas
on this the 29 day of June 2023
at 11:14 o'clock A.M.
Terri Pirtle Willard, District Clerk
By Terri Willard Deputy


JUDGE PRESIDING

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

Printed Name of Presiding Juror

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

Signature

Name Printed

1 [Signature]
2 Adolphus Murphy
3 Lorin Boyd
4 Jacqueline Williams
5 Patricia York
6 William Summers
7 Trudy Rodriguez
8 [Signature]
9 COURTNEY DARDEN
10 Katelyn Thompson

Joshua Mata
Adolphus Murphy
LORIN BOYD
Jacqueline Williams
PATRICIA YORK
William Summers
Trudy Rodriguez
Daniel Ihlenfeldt
COURTNEY DARDEN
Katelyn Thompson

FILED
In the District Court of
Rusk County Texas
on this the 29 day of June 2023
at 3:32 o'clock P. M.
Terri Pirtle Willard, District Clerk
By [Signature] Deputy