

HAROLD HORNER, CONNIE BRITT,
ANDY HORNER, AND CHERYL HORNER,
Plaintiffs

v.

KEYSTONE AMERICA INC.,
Defendant

Case No. 07-3441 WDB

SPECIAL INTERROGATORIES

Generally Applicable Instructions:

Unless it is explicitly stated otherwise in the question, the applicable standard of proof is the “preponderance of the evidence” standard defined in the instructions that I have given you.

These special interrogatories contain legal terms and standards that are defined and explained in detail in the jury instructions. Please refer to your copies of the jury instructions if you are unsure about the meaning or content of any legal term or standard that appears in the special interrogatories.

In many instances, the answer you give to one question determines which question you are to address next. Please attend carefully to the instructions that follow immediately after the questions; those instructions may tell you to skip some questions and to go directly to another question.

If you find that Plaintiffs have proved that Defendant breached its duty to provide appropriate and dignified services and/or that Defendant was professionally negligent, you will proceed to determine, separately for each Plaintiff, whether that particular Plaintiff has proved that he or she suffered emotional distress damages as a result of the breach and/or as a result of the professional negligence. If Plaintiffs fail to prove that Defendant breached its duty to provide appropriate and dignified services and failed to prove that Defendant was professionally negligent, you may not award damages to any Plaintiff.

If Plaintiffs prove that Defendant provided professionally negligent embalming services, you will proceed to determine whether Defendant proved that the Colorado mortician's conduct also was professionally negligent. If Defendant makes that proof, you will determine what percentage of the responsibility for damages Plaintiffs suffered as a result of the condition of Lela Horner's body when the service was to be held in Colorado is fairly attributable to Defendant and what percentage of that responsibility is fairly attributable to the Colorado mortician.

The first question for you to answer is question number 1 presented on page 3.

I. ALLEGED BREACH OF DUTY TO PROVIDE APPROPRIATE AND DIGNIFIED FUNERAL SERVICES

A. ALLEGED BREACH OF DUTY BY DEFENDANT

1. Did Plaintiffs prove, by a preponderance of the evidence, that Defendant breached its duty to provide funeral services in an appropriate, dignified manner?

_____yes _____no

If you answered “no” to question number one, skip forward to question number 10.

If you answered “yes” to question number 1, you must proceed to determine, separately for each plaintiff, whether he or she proved that the breach of this duty by Defendant caused that particular plaintiff to suffer emotional distress damages, and, if so, what amount of money will fairly compensate that particular plaintiff for the emotional distress damages that he or she proved she suffered as a result of Defendant’s breach of this duty.

Thus, if you answered “yes” to question number 1, you must address at least questions 2, 4, 6, and 8, below. In addition, for any of these four questions that you answer “yes,” you also must answer the immediately following question about amount of damages.

B. CLAIMED EMOTIONAL DISTRESS DAMAGES

i. HAROLD HORNER

2. Did Plaintiff Harold Horner prove that Defendant’s breach of its duty to provide appropriate and dignified services caused him to suffer emotional distress damages?

_____ yes _____ no

If you answered “yes” to question number 2, go to question number 3.

If you answered “no” to question number 2, skip forward to question number 4.

3. How much money will fairly and adequately compensate Plaintiff Harold Horner for emotional distress damages that he proved Defendant’s breach of its duty to provide appropriate and dignified services caused him to suffer?

\$ _____

Go to question number 4.

ii. CONNIE BRITT

4. Did Plaintiff Connie Britt prove that Defendant’s breach of its duty to provide appropriate and dignified services caused her to suffer emotional distress damages?

_____ yes _____ no

If you answered “yes” to question number 4, go to question number 5.

If you answered “no” to question number 4, skip forward to question number 6.

5. How much money will fairly and adequately compensate Plaintiff Connie Britt for emotional distress damages that she proved Defendant's breach of its duty to provide appropriate and dignified services caused her to suffer?

\$ _____

Go to question number 6.

iii. ANDY HORNER

6. Did Plaintiff Andy Horner prove that Defendant's breach of its duty to provide appropriate and dignified services caused him to suffer emotional distress damages?

_____ yes

_____ no

If you answered "yes" to question number 6, go to question number 7.

If you answered "no" to question number 6, skip forward to question number 8.

7. How much money will fairly and adequately compensate Plaintiff Andy Horner for emotional distress damages that he proved Defendant's breach of its duty to provide appropriate and dignified services caused him to suffer?

\$ _____

Go to question number 8.

iv. CHERYL HORNER

8. Did Plaintiff Cheryl Horner prove that Defendant's breach of its duty to provide appropriate and dignified services caused her to suffer emotional distress damages?

_____ yes

_____ no

If you answered "yes" to question number 8, go to question number 9.

If you answered "no" to question number 8, skip forward to question number 10.

9. How much money will fairly and adequately compensate Plaintiff Cheryl Horner for emotional distress damages that she proved Defendant's breach of its duty to provide appropriate and dignified services caused her to suffer?

\$ _____

Go to question number 10.

II. ALLEGED PROFESSIONAL NEGLIGENCE

A. ALLEGED PROFESSIONAL NEGLIGENCE BY DEFENDANT

10. Did Plaintiffs prove that the way Defendant performed the embalming of Lela Horner was professionally negligent, that is, fell below the standard of care for the embalming profession?

_____ yes _____ no

If you answered “no” to question number 10, skip forward to the concluding instruction on the last page of these Special Interrogatories.

If you answered “yes” to question number 10, go to question number 11.

B. ALLEGED PROFESSIONAL NEGLIGENCE BY THE COLORADO MORTICIAN

11. Did Defendant prove that the Colorado mortician’s conduct was professionally negligent, that is, fell below the standard of care for the embalming profession?

_____ yes _____ no

If you answered “no” to question 11, skip forward to question 14.

If you answered “yes” to question 11, go to question number 12.

12. If Defendant proved that the Colorado mortician's conduct was professionally negligent, did Defendant also prove that that professionally negligent conduct by the Colorado mortician was a substantial factor in causing any emotional distress damages that Plaintiffs proved they suffered as a result of the condition of Lela Horner's body when the services were to be held in Colorado?

_____ yes _____ no

If you answered "no" to question number 12, skip forward to question number 14.

If you answered "yes" to question number 12, go to question number 13.

13. If Defendant proved that professional negligence by the Colorado mortician was a substantial factor in causing any emotional distress damages that Plaintiffs suffered, what percentage of the total responsibility for damages caused by professional negligence by the morticians (in combination) did Defendant prove is fairly attributable to the professional negligence by the Colorado mortician?

_____ % (attributable to Colorado mortician)

Go to question number 14.

C. CLAIMED EMOTIONAL DISTRESS DAMAGES

At this juncture you will proceed to determine, separately for each plaintiff, whether he or she has proved that he or she suffered emotional distress damages as a result of the condition of Lela Horner’s body when the services were to be held in Colorado, and, if so, what amount of money will fairly compensate that particular plaintiff for all of those emotional distress damages.

If you have attributed some percentage of the responsibility for Plaintiffs’ damages to professional negligence by the Colorado mortician, the Court will apply the percentage figure that you have fixed to the total damages in order to assure that any judgment against the Defendant would include only that percentage of the total damages that you have attributed to the Defendant.

To begin this segment of your task, please proceed to question 14.

i. HAROLD HORNER

14. Did Plaintiff Harold Horner prove that he suffered emotional distress damages as a result of the condition of Lela Horner’s body when the services were to be held in Colorado?

_____ yes _____ no

If you answered “yes” to question number 14, go to question number 15.

If you answered “no” to question number 14, skip forward to question number 16.

15. How much money will fairly and adequately compensate Plaintiff Harold Horner for emotional distress damages that he proved he suffered as a result of the condition of Lela Horner’s body when the services were to be held in Colorado?

\$ _____

Go to question number 16.

ii. CONNIE BRITT

16. Did Plaintiff Connie Britt prove that she suffered emotional distress damages as a result of the condition of Lela Horner’s body when the services were to be held in Colorado?

_____ yes _____ no

If you answered “yes” to question number 16, go to question number 17.

If you answered “no” to question number 16, skip forward to question number 18.

17. How much money will fairly and adequately compensate Plaintiff Connie Britt for emotional distress damages that she proved she suffered as a result of the condition of Lela Horner’s body when the services were to be held in Colorado?

\$ _____

Go to question number 18.

iii. ANDY HORNER

18. Did Plaintiff Andy Horner prove that he suffered emotional distress damages as a result of the condition of Lela Horner’s body when the services were to be held in Colorado?

_____ yes _____ no

If you answered “yes” to question number 18, go to question number 19.

If you answered “no” to question number 18, skip forward to question number 20.

19. How much money will fairly and adequately compensate Plaintiff Andy Horner for emotional distress damages that he proved he suffered as a result of the condition of Lela Horner's body when the services were to be held in Colorado?

\$ _____

Go to question number 20.

iv. CHERYL HORNER

20. Did Plaintiff Cheryl Horner prove that she suffered emotional distress damages as a result of the condition of Lela Horner's body when the services were to be held in Colorado?

_____ yes _____ no

If you answered "yes" to question number 20, go to question number 21.

If you answered "no" to question number 20, skip forward to the Concluding Instruction.

21. How much money will fairly and adequately compensate Plaintiff Cheryl Horner for emotional distress damages that she proved she suffered as a result of the condition of Lela Horner's body when the services were to be held in Colorado?

\$ _____

Go to the Concluding Instruction.

CONCLUDING INSTRUCTION:

If you have reached this point, you should have completed your deliberations. Please go over these special interrogatories once more to make sure that you have answered all the questions that the instructions directed you to answer and that you have recorded no response to the questions which, given your other findings, you were instructed not to address. After you have completed this task, your foreperson should place his or her signature, the date, and his or her printed name in the appropriate spaces below.

(Foreperson's signature)

(date)

(Foreperson's name -- printed)