

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
CHIEF JUDGE WILEY Y. DANIEL**

Courtroom Deputy: Robert R. Keech  
E.C.R./Reporter: Tammy Hoffschildt

Date: September 17, 2012

Civil Action No: **08-cv-00091-WYD-CBS**

Counsel:

**WAYNE WATSON and  
MARY WATSON,**

Plaintiffs,

v.

**DILLON COMPANIES, INC., et al.,**

Defendants.

Kenneth B. McClain  
Steven E. Crick  
Andrew K. Smith  
Scott A. Britton-Mehlisch  
Scott B. Hall

Brett M. Godfrey  
Paul J. Rupprecht  
Jason D. Melichar

**COURTROOM MINUTES**

**TRIAL TO JURY (DAY 10)**

**9:18 a.m.** Court in Session - Jury not present

Court's remarks regarding Plaintiffs' Motion for Directed Verdict with Regard to Defendants' Affirmative Defense that Non-parties or Plaintiff Wayne Watson are Also at Fault (ECF Doc. No. 802), filed September 17, 2012.

**JURY INSTRUCTION CONFERENCE**

#1 OBJECTION BY PLAINTIFFS - OVERRULED.  
#6 OBJECTION BY PLAINTIFFS - COURT WILL MODIFY.  
#16 OBJECTION BY PLAINTIFFS - COURT WILL MODIFY.  
#17 OBJECTION BY DEFENDANTS - COURT WILL REMOVE.  
#18 OBJECTION BY PLAINTIFFS - COURT WILL REMOVE.  
#21 OBJECTION BY DEFENDANTS - COURT WILL MODIFY.  
#25 OBJECTION BY PLAINTIFFS - OVERRULED.

Plaintiffs' Motion for Directed Verdict with Regard to Defendants' Affirmative Defense that Non-parties or Plaintiff Wayne Watson are Also at Fault (ECF Doc. No. 802), filed September 17, 2012, is raised for argument.

- 9:43 a.m. Argument by Plaintiffs (Mr. Hall).
- 9:44 a.m. Argument by Defendants (Mr. Godfrey).
- 9:46 a.m. Argument by Plaintiffs (Mr. Hall).
- 9:50 a.m. Argument by Defendants (Mr. Godfrey).
- 9:51 a.m. Argument by Plaintiffs (Mr. Hall).
- 9:54 a.m. Argument by Defendants (Mr. Godfrey).
- 10:05 a.m. Argument by Plaintiffs (Mr. Hall).
- 10:09 a.m. Argument by Plaintiffs (Mr. McClain).
- 10:10 a.m. Argument by Defendants (Mr. Godfrey).
- 10:11 a.m. Argument by Plaintiffs (Mr. Hall).
- 10:18 a.m. Argument by Defendants (Mr. Godfrey).

**ORDERED:** Plaintiffs' Motion for Directed Verdict with Regard to Defendants' Affirmative Defense that Non-parties or Plaintiff Wayne Watson are Also at Fault (ECF Doc. No. 802), filed September 17, 2012, is **DENIED**.

Defendants' oral motion for judgment as a matter of law.

- 10:22 a.m. Argument by Defendants (Mr. Godfrey).
- 10:27 a.m. Argument by Plaintiffs (Mr. Hall).

**ORDERED:** Defendants' oral motion for judgment as a matter of law is **DENIED**.

- #26 OBJECTION BY PLAINTIFFS - OVERRULED.
- #27 OBJECTION BY PLAINTIFFS - OVERRULED.
- #31 OBJECTION BY PLAINTIFFS - OVERRULED.
- #32 OBJECTION BY PLAINTIFFS - OVERRULED.
- #33 OBJECTION BY PLAINTIFFS - OVERRULED.
- #34 OBJECTION BY PLAINTIFFS - OVERRULED.

#38 OBJECTION BY PLAINTIFFS - OVERRULED.  
#39 OBJECTION BY PLAINTIFFS - OVERRULED.  
#41 OBJECTION BY PLAINTIFFS - OVERRULED.  
#44 OBJECTION BY PLAINTIFFS - OVERRULED.  
#45 OBJECTION BY PLAINTIFFS - OVERRULED.  
#46 OBJECTION BY PLAINTIFFS - OVERRULED.  
#47 OBJECTION BY PLAINTIFFS - OVERRULED.  
#48 OBJECTION BY PLAINTIFFS - COURT WILL MODIFY.  
#49 OBJECTION BY PLAINTIFFS - COURT WILL REMOVE.  
#51 OBJECTION BY PLAINTIFFS - COURT WILL MODIFY.  
#52 OBJECTION BY PLAINTIFFS - COURT WILL MODIFY.  
#53 OBJECTION BY PLAINTIFFS - OVERRULED.  
#54 OBJECTION BY PLAINTIFFS - OVERRULED.  
#55 OBJECTION BY PLAINTIFFS - OVERRULED.  
#62 OBJECTION BY PLAINTIFFS - COURT WILL MODIFY.  
#63 OBJECTION BY PLAINTIFFS - OVERRULED.

Verdict Form OBJECTION BY PLAINTIFFS - DEFERRED.

**11:13 a.m.** Court in Recess

**12:01 p.m.** Court in Session - Jury not present

Further discussion regarding jury instructions and verdict form.

12:17 p.m. Jury enters

12:18 p.m. Plaintiffs have not rebuttal case-in-chief.

Court reads jury instructions and verdict form.

1:23 p.m. No objection to jury instructions and verdict form as read by the Court.

1:25 p.m. Jury excused for lunch.

Discussion regarding issues related jury instruction 51 and verdict form.

**1:37 p.m.** Court in Recess

**2:53 p.m.** Court in Session - Jury not present

Discussion regarding verdict form and time limits for closing arguments.

**ORDERED:** Closing arguments shall not exceed **one (1) hour per side.**

3:11 p.m. Jury enters

3:12 p.m. Closing argument by Plaintiffs (Mr. McClain).

4:05 p.m. Closing argument by Defendants (Mr. Godfrey).

5:01 p.m. Rebuttal argument by Plaintiffs (Mr. McClain).

Court outlines verdict form.

5:13 p.m. Jury excused for the evening and shall report back on Tuesday, September 18, 2012, at 9:00 a.m.

Court's remarks to counsel regarding exhibits and providing contact phone numbers.

**5:14 p.m.** Court in Recess - TRIAL CONTINUED.

**TOTAL TIME: 5:52**