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SPECIAL VERDICT FORM

I. UNAUTHORIZED USE OF NAME – Counts III and V

A. Count III For Violation of 42 Pa. C.S. § 8316

1. Did West use the Plaintiffs' names or likenesses without written consent of the Plaintiffs?

Answer: (yes or no)

2. Did the Plaintiffs' names or likenesses have a commercial value?

Answer: (yes or no)

3. Did West use the Plaintiffs' names or likenesses for a commercial or advertising purpose that was not connected to the Treatise?

Answer: (yes or no)

[If you answered "Yes" to 1, 2 and 3, then please continue to 4. If you answered "No" to any of 1 through 3, then please skip to 7.]

4. Did West and its employees or agents reasonably believe that they had a contractual right to use Plaintiffs' names or likenesses?

Answer: (yes or no)

[If you answered "Yes" to 4, then please skip to 7. If you answered "No" to 4, then please continue to 5.]

5. Were West and its employees or agents unsure whether or not they had the contractual right to use Plaintiffs' names or likeness?

Answer: (yes or no)

[If you answered "Yes" to 5, then please skip to 7. If you answered "No" to 5, then please continue to 6.]

Damages for Count III for violation of 42 Pa. C.S. § 8316

6. What sum of money will compensate Plaintiffs for the actual loss or injury they sustained on account of the misappropriation of their names or likenesses under Count III?

Answer: \$ _____

B. Count V For Common Law Misappropriation of Name

7. Did West appropriate the names or likenesses of the Plaintiffs for its own use or benefit?

Answer: (yes or no)

[If you answered "Yes" to 7, then please continue to 8. If you answered "No" to 7, then please skip to 10.]

8. Did Plaintiffs consent to West's use of Plaintiffs' names and likenesses?

Answer: (yes or no)

- 8.a. Did West and its employees or agents reasonably believe that they had a contractual right to use Plaintiffs' names or likenesses?

Answer: (yes or no)

- 8.b. Were West and its employees or agents unsure whether or not they had the contractual right to use Plaintiffs' names or likenesses?

Answer: (yes or no)

[If you answered "Yes" to any of 8, or 8.a. or 8.b. then please skip to 10. If you answered "No" to all of 8, 8.a. and 8.b. then please continue to 9.]

Damages for Count V, Common Law Misappropriation of Name

9. What sum of money will compensate Plaintiffs for the actual loss or injury they sustained on account of the misappropriation of their names or likenesses for Count V, common law misappropriation of name?

Answer: \$_____

II. DEFAMATION AND FALSE LIGHT – Counts IV and VI

A. Count IV for Defamation

10. Did the intended audience of the 2008 Pocket Part conclude that the 2008 Pocket Part was inaccurate and out-of-date?

Answer: (yes or no)

11. Did the intended audience of the 2008 Pocket Part conclude that the Plaintiffs authored the 2008 Pocket Part?

Answer: (yes or no)

[If you answered "Yes" to 10-11, then please continue to 12. If you answered "No" to any of 10-11, then please skip to 25.]

12. Did Plaintiffs consent to West’s publication of the 2008 Pocket Part listing Plaintiffs as authors along with West’s Publisher’s Staff?

Answer: (yes or no)

[If you answered “Yes” to 12, then please skip to 16. If you answered “No” to 12, then please continue to 13.]

13. Was West’s publication of the 2008 Pocket Part listing Plaintiffs as authors along with West’s Publisher’s Staff, even if it was defamatory of the Plaintiffs, true or substantially true?

Answer: (yes or no)

[If you answered “Yes” to 13 then please skip to 16. If you answered “No” to 13, then please continue to 14.]

General Damages for Count IV, Defamation

14. Did Plaintiffs establish that there was some personal humiliation caused by West’s publication of the 2008 Pocket Part – as determined by the reaction of other persons in the community?

[If you answered “Yes” to 14, then please continue to 15. If you answered “No” to 14, then please skip to 16.]

15. What amount of general damages will compensate Plaintiffs for their personal humiliation because of West’s defamation?

Answer: \$_____

B. Count V for False Light

16. Did Plaintiffs consent to West’s publication of the 2008 Pocket Part listing Plaintiffs as authors along with West’s Publisher’s Staff?

Answer: (yes or no)

[If you answered “Yes” to 16 then please skip to 21. If you answered “No” to 16, then please continue to 17.]

17. Did West’s publication of the 2008 Pocket Part listing Plaintiffs as authors along with West’s Publisher’s Staff place Plaintiffs in a false light that would be highly offensive to a reasonable person?

Answer: (yes or no)

[If you answered “Yes” to 17 then please continue to 18. If you answered “No” to 17, then please skip to 21.]

18. When West published the 2008 Pocket Part listing Plaintiffs as authors along with West’s Publisher’s Staff, did West act with knowledge of the falsity of the matter or in reckless disregard of whether it was true or false?

Answer: (yes or no)

[If you answered “Yes” to 18 then please continue to 19. If you answered “No” to 18, then please skip to 21.]

General Damages for Count V, False Light

19. Did Plaintiffs establish that there was some reputational damage or personal humiliation caused by West’s publication of the 2008 Pocket Part – as determined by the reaction of other persons in the community?

[If you answered “Yes” to 19, then please continue to 20. If you answered “No” to 19, then please skip to 21.]

20. What amount of general damages will compensate Plaintiffs for their reputational damage or personal humiliation under Count V, false light?

Answer: \$_____

C. Actual Malice

21. If you awarded Plaintiffs no general damages in numbers 15 and 20 above, please skip to 25. If you awarded Plaintiffs as least some general damages in numbers 15 or 20 above, please continue to 22.

22. Did Plaintiffs establish by clear and convincing evidence that West acted with actual malice when it published the December 2008-2009 Pocket Part, meaning that West, in December 2008, published the December 2008-2009 Pocket Part “with knowledge that it was false” or “with a high degree of awareness of probable falsity”?

Answer: (yes or no)

[If you answered “Yes” to 22 then continue to 23. If you answered “No” to 22, then please skip to 25.]

D. Presumed Damages for Count IV Defamation and Count V False Light

23. What, if any, is the amount of presumed damages that you have determined are expected to result from West’s defamation?

Answer: \$_____

[If you answered yes to number 22 above, then please continue to 24. If you answered no to number 22 above, then please skip to 25.]

E. Punitive Damages for Count IV Defamation and Count V False Light

24. What is the amount of punitive damages, if any, that you award Plaintiffs?

Answer: \$_____

25. Please inform the bailiff that you have completed the Special Verdict Form.

Date: _____

Signed: _____
(foreperson)