

UNITED STATES DISTRICT COURT  
for the  
District of \_\_\_\_\_

SIDNEY YOUNG,  
Plaintiff,

v.

RILEY GARDNER, and his mother, TRACY GARDNER,  
Defendants.

Case No. 07-000099

**JURY INSTRUCTIONS FOLLOWING CLOSE OF EVIDENCE**

In deciding what the facts are, you may have to decide what testimony you do and do not believe, in full or in part. You may consider the memory of a witness, any motives a witness may have for testifying a certain way, and the general reasonableness of the testimony.

Here are the legal standards that apply in this case. The Plaintiff, Sidney Young, has the burden of proving each fact by a preponderance of the evidence — meaning that it is more likely true than not true. If the evidence is equally balanced on any issue, it has not been proved, then you must decide it in favor of the Defendants, Riley Gardner and his mother.

Negligence is the failure to use ordinary or reasonable care to prevent harm to oneself or others. A person is negligent if he or she does something that a reasonably careful person would not do in that situation or fails to do something that a reasonably careful person would do in that situation. You must decide how a reasonably careful person would have acted in a situation.

For Plaintiff to establish that he was harmed by Riley Gardner's negligence, Plaintiff must prove (1) that Mr. Gardner's conduct was negligent and (2) that the negligence was a substantial factor in causing harm to Plaintiff.

For Plaintiff to establish that he was harmed by Tracy Gardner's negligent supervision of her son Riley, Plaintiff must prove: (1) that Ms. Gardner observed dangerous behavior by Riley that led to Plaintiff's injuries or else was aware that Riley had habits or tendencies that created an unreasonable risk of harm to other persons; (2) that Ms. Gardner had the opportunity and ability to control Riley's conduct; (3) that Ms. Gardner negligently failed to exercise reasonable care to prevent that conduct or to take reasonable precautions to prevent harm to others; and (4) that Ms. Gardner's negligence was a substantial factor in causing harm to Plaintiff.

In a typical civil suit of this kind, if you decide that Plaintiff should win on any claim, then you must decide whether he has been damaged and, if so, the amount of those damages. Damages include any past and future medical expenses, any economic loss, and any physical/mental pain and suffering. In light of the time constraints for this exercise, I am instructing you not to consider damages.

(over)

**In conducting your deliberations and returning a verdict, you must follow five**

**rules:**

*First*, when you go to the jury room, choose someone to be your foreperson. That person will preside over your discussions and speak for you here in court, but otherwise has no greater vote or authority than any other juror.

*Second*, it is your duty as jurors to discuss this case with one another in the jury room. Each of you must make your own conscientious decision, but only after considering all the evidence and discussing it fully with your fellow jurors. Do not be afraid to change your opinions if the discussion persuades you that you should. But do not make a decision simply because other jurors think it is right, or simply to reach a verdict.

*Third*, if you need to communicate with me during your deliberations, you may send me a note signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. But do not tell anyone — including me — how your votes stand numerically.

*Fourth*, your verdict must be unanimous — all jurors must agree — and must be based solely on the evidence presented in court and on the law that I instruct you on. It is entirely for you to decide.

*Finally*, take the verdict form to the jury room — along with a written copy of the jury instructions that I am now reading to you — and when each of you has agreed, your foreperson will fill out the verdict form, sign and date it, and tell the court that you are finished.