

2012 W L 7070311 (N.Y. Sup.) (Verdict, Agreement and Settlement)
Supreme Court of New York.
Onondaga County

Kelley BUTTERFIELD and Douglas Butterfield, Plaintiffs,

v.

James R. CAPUTO, M.D., James R. Caputo, M.D., P.C., and Crouse Hospital, Defendants.

No. 2009-3595.
January 20, 2012.

Preliminary Instructions to the Jury

ALL SIX (6) OF YOU MUST PARTICIPATE IN THE DELIBERATION, VOTING, AND ANSWERS TO THE FOLLOWING QUESTIONS. HOWEVER, ONLY FIVE (5) OF YOU - BUT NOT NECESSARILY THE SAME FIVE (5) JURORS - MUST AGREE UPON THE ANSWER TO THE FOLLOWING QUESTIONS AND SIGN IN THE SPACE INDICATED.

QUESTIONS TO BE ANSWERED BY THE SIX (6) JURORS, AND INSTRUCTIONS TO BE FOLLOWED AFTER ANSWERING THE QUESTION:

1. WAS THE DEFENDANT, DR. JAMES R. CAPUTO, M.D., NEGLIGENT IN HIS TREATMENT OF MRS. BUTTERFIELD?

YES X

NO

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IF YOUR ANSWER TO QUESTION "1" IS "YES", PLEASE PROCEED TO QUESTION "2". IF YOUR ANSWER TO QUESTION "1" IS "NO", PLEASE PROCEED TO QUESTION "3".

2. WAS DEFENDANT JAMES R. CAPUTO'S NEGLIGENCE A SUBSTANTIAL FACTOR IN CAUSING INJURY TO MRS. BUTTERFIELD?

YES NO X

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PLEASE PROCEED TO QUESTION "3."

3. WAS DEFENDANT CROUSE HOSPITAL NEGLIGENT IN ITS TREATMENT OF MRS. BUTTERFIELD?

YES X

NO

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IF YOUR ANSWER TO QUESTION "3" IS "YES", PLEASE PROCEED TO QUESTION "4." IF YOUR ANSWER TO QUESTION "3" IS "NO", PLEASE PROCEED TO QUESTION "5". IF YOUR ANSWERS TO QUESTIONS "2" AND "3" IS "NO"; STOP AND REPORT TO THE COURT.

4. WAS DEFENDANT CROUSE HOSPITAL'S NEGLIGENCE A SUBSTANTIAL FACTOR IN CAUSING INJURY TO MRS. BUTTERFIELD?

YES X

NO

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IF YOUR ANSWERS TO "2" AND "4" WAS "NO", STOP AND REPORT TO COURT. OTHERWISE, PLEASE PROCEED TO QUESTION "5".

5. IF YOU FIND MORE THAN ONE DEFENDANT TO BE NEGLIGENT AND THE NEGLIGENCE WAS A SUBSTANTIAL FACTOR IN CAUSING INJURY TO PLAINTIFF KELLEY BUTTERFIELD, WHAT IS THE PERCENTAGE OF FAULT OF EACH OF THE DEFENDANTS?

THE TOTAL MUST BE 100%

JAMES R. CAPUTO, M.D. _____%

CROUSE HOSPITAL 100%

NOTE: You can only apportion fault to those defendants where you have answered "Yes" to Questions "2" and "4".

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PLEASE PROCEED TO QUESTION NO. "6".

6. STATE SEPARATELY THE AMOUNT AWARDED FOR THE FOLLOWING ITEMS OF DAMAGES, IF ANY, UP TO THE DATE OF YOUR VERDICT:

(a) Pain and Suffering of Kelley Butterfield, including loss of enjoyment of life \$ 300,000

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IF YOU DECIDE NOT TO MAKE AN AWARD AS TO THE ABOVE ITEM YOU WILL INSERT THE WORD "NONE" AS TO THAT ITEM.

PLEASE PROCEED TO QUESTION "7".

7. STATE SEPARATELY THE AMOUNT OF DAMAGES, IF ANY, FOR THE FOLLOWING ITEMS OF DAMAGES FROM THE DATE OF YOUR VERDICT TO BE INCURRED IN THE FUTURE. FOR EACH ITEM OF DAMAGE FOR WHICH AN AWARD IS MADE, STATE THE PERIOD OF YEARS OVER WHICH THE AMOUNT AWARDED FOR SUCH LOSS IS INTENDED TO PROVIDE COMPENSATION.

	AMOUNT	NUMBER OF YEARS
A. Pain and Suffering, including loss of enjoyment of life	\$ 60,000	30
B. Future Medical Costs	\$ 164,306.92	30

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IF YOU DECIDE NOT TO MAKE AN AWARD AS TO ANY OF THE ABOVE ITEMS YOU WILL INSERT THE WORD "NONE" AS TO THAT ITEM.

PLEASE PROCEED TO QUESTION "8".

8. STATE THE AMOUNT YOU AWARD PLAINTIFF DOUGLAS BUTTERFIELD FOR THE FOLLOWING ITEMS OF DAMAGES FROM THE DATE OF THE OCCURRENCE TO THE DATE OF THE VERDICT:

(a) Loss of Consortium \$ 100,000

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IF YOU DECIDE NOT TO MAKE AN AWARD AS TO ANY OF THE ABOVE ITEMS YOU WILL INSERT THE WORD "NONE" AS TO THAT ITEM.

PLEASE PROCEED TO QUESTION "9".

9. STATE THE AMOUNT YOU AWARD PLAINTIFF DOUGLAS BUTTERFIELD FOR THE FOLLOWING ITEMS OF DAMAGES IN THE FUTURE. FOR EACH ITEM OF DAMAGE FOR WHICH AN AWARD IS MADE, STATE THE PERIOD OF YEARS OVER WHICH THE AMOUNT AWARDED FOR SUCH LOSS IS INTENDED TO PROVIDE COMPENSATION:

	AMOUNT	NUMBER OF YEARS
(a) Loss of Consortium	\$0.00

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IF YOU DECIDE NOT TO MAKE AN AWARD AS TO ANY OF THE ABOVE ITEMS YOU WILL INSERT THE WORD "NONE" AS TO THAT ITEM.

PLEASE STOP AND REPORT TO THE COURT.

DATE: January 20, 2012

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