

ORIGINAL

CAUSE NO. B-198493

Hector Barron, Individually and as	§	IN THE DISTRICT COURT OF
Representative of the Estate of Miguel	§	
Barron, Deceased, Jorge Barron, Miguel	§	
Barron, Maria Barron, Isabel Barron,	§	
Jacqueline M. Berrios, as Next Friend of	§	
Alyssa M. Barron, and Melissa Perez as	§	
Next Friend of Mia Neydeen Barron	§	
VS.	§	JEFFERSON COUNTY, TEXAS
	§	
B&G Crane Service, Inc.	§	60 <sup>TH</sup> JUDICIAL DISTRICT
	§	

**Court's Jury Charge**

Members of the Jury:

After the closing arguments, you will go to the jury room to decide the case, answer the questions that are attached, and reach a verdict. You may discuss the case with other jurors only when you are all together in the jury room.

Remember my previous instructions: Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your phone or any other electronic device during your deliberations for any reason. I will give you a number where others may contact you in case of an emergency.

Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.

You must leave your notes with the bailiff when you are not deliberating. The bailiff will give your notes to me promptly after collecting them from you. I will make sure your notes are kept in a safe, secure location and not disclosed to anyone. After you complete your deliberations, the bailiff will collect your notes. When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.



Here are the instructions for answering the questions.

1. Do not let bias, prejudice, or sympathy play any part in your decision.
2. Base your answers only on the evidence admitted in court and on the law that is in these instructions and questions. Do not consider or discuss any evidence that was not admitted in the courtroom.
3. You are to make up your own minds about the facts. You are the sole judges of the credibility of the witnesses and the weight to give their testimony. But on matters of law, you must follow all of my instructions.
4. If my instructions use a word in a way that is different from its ordinary meaning, use the meaning I give you, which will be a proper legal definition.
5. All the questions and answers are important. No one should say that any question or answer is not important.
6. Answer “yes” or “no” to all questions unless you are told otherwise. A “yes” answer must be based on a preponderance of the evidence. Whenever a question requires an answer other than “yes” or “no,” your answer must be based on a preponderance of the evidence. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.
7. Do not decide who you think should win before you answer the questions and then just answer the questions to match your decision. Answer each question carefully without considering who will win. Do not discuss or consider the effect your answers will have.
8. Do not answer questions by drawing straws or by any method of chance.
9. Some questions might ask you for a dollar amount. Do not agree in advance to decide on a dollar amount by adding up each juror’s amount and then figuring the average.
10. Do not trade your answers. For example, do not say, “I will answer this question your way if you answer another question my way.”
11. The answers to the questions must be based on the decision of at least 10 of the 12 jurors. The same 10 jurors must agree on every answer. Do not agree to be bound by a vote of anything less than 10 jurors, even if it would be a majority.
12. A fact may be established by direct evidence or by circumstantial evidence or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other facts proved.

As I have said before, if you do not follow these instructions, you will be guilty of juror misconduct, and I might have to order a new trial and start this process over again. This would waste your time and the parties’ money, and would require the taxpayers of this county to pay for

another trial. If a juror breaks any of these rules, tell that person to stop and report it to me immediately.

**QUESTION NO. 1:**

Did the negligence, if any, of any of those below proximately cause the occurrence in question?

“Negligence” means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

“Proximate cause” means a cause that was a substantial factor in bringing about an occurrence or injury, and without which cause such occurrence or injury would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the occurrence or injury, or some similar occurrence or injury, might reasonable result therefrom. There may be more than one proximate cause of an occurrence or injury.

“Ordinary care” means that degree of care which would be used by a person of ordinary prudence under the same or similar circumstances.

Answer “Yes” or “No” for each of the following:

- a. B&G Crane Service, Inc. Yes
- b. ExxonMobil Oil Corp. Yes
- c. AltairStrickland, Inc. Yes
- d. Miguel Barron No

**QUESTION NO. 2**

If you answered “Yes” for B&G Crane Service, Inc., in Question 1, then answer the following question. Otherwise, do not answer the following question.

Assign percentages of responsibility only to those you found caused or contributed to cause the occurrence in question. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to a person is not necessarily measured by the number of acts or omissions. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

For each person you found caused or contributed to cause the occurrence in your answer to Question 1, find the percentage of responsibility attributable to each:

A. B&G Crane Service, Inc.	<u>45</u> %
B. ExxonMobil Oil Corp.	<u>45</u> %
C. AltairStrickland, Inc	<u>10</u> %
D. Miguel Barron	<u>0</u> %
Total	100%

### QUESTION NO. 3

What sum of money, if paid now in cash, would fairly and reasonably compensate Isabel Barron, Alyssa Barron, and Mia Barron, Miguel Barron, Sr., and Maria Barron for their damages, if any, that resulted from the death of Miguel Barron?

Consider the elements of damages listed below and none other. Consider each element separately. Do not include damages for one element in any other element. Do not include interest on any amount of damages you find. Do not include any amount for any condition that did not result from the occurrence in question.

Do not reduce the amounts, if any, in your answers because of percentages of the negligence, if any, of those listed in question 2.

#### 1. Pecuniary Loss Sustained in the past.

“Pecuniary loss” means the loss of care, maintenance, support, services, advice, counsel and reasonable contributions of pecuniary value that Isabel Barron, Alyssa Barron, and Mia Barron, Miguel Barron, Sr., and Maria Barron, in reasonable probability, would have received from Miguel Barron, had he lived.

Isabel Barron	Answer: <u>250,000</u>
Alyssa Barron	Answer: <u>300,000</u>
Mia Barron	Answer: <u>250,000</u>
Miguel Barron, Sr.	Answer: <u>135,000</u>
Maria Barron	Answer: <u>335,000</u>

#### 2. Pecuniary loss that, in reasonable probability, will be sustained in the future.

Isabel Barron	Answer: <u>1,000,000</u>
Alyssa Barron	Answer: <u>1,500,000</u>
Mia Barron	Answer: <u>2,000,000</u>
Miguel Barron, Sr.	Answer: <u>600,000</u>
Maria Barron	Answer: <u>600,000</u>

#### 3. Loss of companionship and society sustained in the past.

“Loss of companionship and society” means the loss of the positive benefits flowing from the love, comfort, companionship, and society that Isabel Barron, Alyssa Barron, and Mia Barron, Miguel Barron, Sr., and Maria Barron, in reasonable probability, would have received from Miguel Barron, had he lived.

Isabel Barron	Answer: <u>500,000</u>
Alyssa Barron	Answer: <u>500,000</u>

Mia Barron Answer: 500,000  
Miguel Barron, Sr. Answer: 250,000  
Maria Barron Answer: 250,000

4. Loss of companionship and society that, in reasonable probability, will be sustained in the future.

Isabel Barron Answer: 3,500,000  
Alyssa Barron Answer: 3,500,000  
Mia Barron Answer: 3,500,000  
Miguel Barron, Sr. Answer: 1,500,000  
Maria Barron Answer: 1,500,000

5. Mental anguish sustained in the past.

“Mental anguish” means the emotional pain, torment, and suffering experienced by Isabel Barron, Alyssa Barron, and Mia Barron, Miguel Barron, Sr., and Maria Barron because of the death of Miguel Barron.

Isabel Barron Answer: 1,000,000  
Alyssa Barron Answer: 1,500,000  
Mia Barron Answer: 1,000,000  
Miguel Barron, Sr. Answer: 1,000,000  
Maria Barron Answer: 1,500,000

6. Mental anguish that, in reasonable probability, will be sustained in the future.

Isabel Barron Answer: 2,000,000  
Alyssa Barron Answer: 2,000,000  
Mia Barron Answer: 2,000,000  
Miguel Barron, Sr. Answer: 1,000,000  
Maria Barron Answer: 1,000,000



**QUESTION NO. 4:**

Did the negligence, if any, of those below proximately cause the occurrence in question?

“Negligence” means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

“Proximate cause” means a cause that was a substantial factor in bringing about an occurrence or injury, and without which cause such occurrence or injury would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the occurrence or injury, or some similar occurrence or injury, might reasonable result therefrom. There may be more than one proximate cause of an occurrence or injury.

“Ordinary care” means that degree of care which would be used by a person of ordinary prudence under the same or similar circumstances.

Answer “Yes” or “No” for each of the following:

- |                            |            |
|----------------------------|------------|
| a. B&G Crane Service, Inc. | <u>Yes</u> |
| b. ExxonMobil Oil Corp.    | <u>Yes</u> |
| c. AltairStrickland, Inc.  | <u>Yes</u> |
| d. Miguel Barron           | <u>No</u>  |
| e. Hector Barron           | <u>No</u>  |

## QUESTION NO. 5

If you answered "Yes" for B&G Crane Service, Inc., in Question 4, then answer the following question as to the claims of Hector Barron. Otherwise, do not answer the following question.

Assign percentages of responsibility only to those you found caused or contributed to cause the occurrence in question. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to a person is not necessarily measured by the number of acts or omissions. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

For each person you found caused or contributed to cause the occurrence in your answer to Question 4, find the percentage of responsibility attributable to each:

A. B&G Crane Service, Inc.	<u>45</u> %
B. ExxonMobil Oil Corp.	<u>50</u> %
C. AltairStrickland, Inc	<u>5</u> %
D. Miguel Barron	<u>0</u> %
E. Hector Barron	<u>0</u> %
Total	100%

## QUESTION NO. 6

What sum of money, if paid now in cash, would fairly and reasonably compensate Hector Barron for his damages, if any, that resulted from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not award include damages for one element in any other element. Do not include interest on any amount of damages you find. Do not include any amount for any condition that did not result from the occurrence in question. For Hector Barron, "mental anguish" is the emotional pain, torment and suffering experienced by Hector Barron as a result of seeing the death of Miguel Barron.

Do not reduce the amounts, if any, in your answers because of percentages of the negligence, if any, of those listed in questions 5. For Hector Barron, "mental anguish" is the emotional pain, torment and suffering experienced by Hector Barron as a result of seeing the death of Miguel Barron.

1. Mental anguish sustained in the past.

Answer: 3,000,000

2. Mental anguish that, in reasonable probability, Hector Barron will sustain in the future.

Answer: 1,000,000

**QUESTION NO. 7:**

Did the negligence, if any, of those below proximately cause the occurrence in question?

“Negligence” means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

“Proximate cause” means a cause that was a substantial factor in bringing about an occurrence or injury, and without which cause such occurrence or injury would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the occurrence or injury, or some similar occurrence or injury, might reasonable result therefrom. There may be more than one proximate cause of an occurrence or injury.

“Ordinary care” means that degree of care which would be used by a person of ordinary prudence under the same or similar circumstances.

Answer “Yes” or “No” for each of the following:

- |                            |            |
|----------------------------|------------|
| a. B&G Crane Service, Inc. | <u>Yes</u> |
| b. ExxonMobil Oil Corp.    | <u>Yes</u> |
| c. AltairStrickland, Inc.  | <u>Yes</u> |
| d. Miguel Barron           | <u>No</u>  |

## QUESTION NO. 8

If you answered "Yes" for B&G Crane Service, Inc., in Question 7, then answer the following question as to the claims of Jorge Barron. Otherwise, do not answer the following question.

Assign percentages of responsibility only to those you found caused or contributed to cause the occurrence in question. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to a person is not necessarily measured by the number of acts or omissions. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

For each person you found caused or contributed to cause the occurrence in your answer to Question 7, find the percentage of responsibility attributable to each:

A. B&G Crane Service, Inc.	<u>45</u> %
B. ExxonMobil Oil Corp.	<u>45</u> %
C. AltairStrickland, Inc	<u>10</u> %
D. Miguel Barron	<u>0</u> %
Total	100%

**QUESTION NO. 9**

What sum of money, if paid now in cash, would fairly and reasonably compensate Jorge Barron for his damages, if any, that resulted from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not include damages for one element in any other element. Do not include interest on any amount of damages you find. Do not include any amount for any condition that did not result from the occurrence in question.

Do not reduce the amounts, if any, in your answers because of percentages of the negligence, if any, of any of those listed in questions 8. For Jorge Barron, "mental anguish" includes the emotional pain, torment and suffering experienced by Jorge Barron as a result of seeing the death of Miguel Barron.

1. Mental anguish sustained in the past.

Answer: 1,500,000

2. Mental anguish that, in reasonable probability, Jorge Barron will sustain in the future.

Answer: 1,000,000

**QUESTION NO. 10:**

Did the negligence, if any, of those below proximately cause the occurrence in question?

“Negligence” means failure to use ordinary care, that is, failing to do that which a person would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

“Proximate cause” means a cause that was a substantial factor in bringing about an occurrence or injury, and without which cause such occurrence or injury would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the occurrence or injury, or some similar occurrence or injury, might reasonable result therefrom. There may be more than one proximate cause of an occurrence or injury.

“Ordinary care” means that degree of care which would be used by a person of ordinary prudence under the same or similar circumstances.

Answer “Yes” or “No” for each of the following:

- a. B&G Crane Service, Inc. Yes
- b. ExxonMobil Oil Corp. Yes
- c. AltairStrickland, Inc. Yes

**QUESTION NO. 11**

If you answered “Yes” for B&G Crane Service, Inc., in Question 7, then answer the following question as to the claims of Jorge Barron. Otherwise, do not answer the following question.

Assign percentages of responsibility only to those you found caused or contributed to cause the occurrence in question. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to a person is not necessarily measured by the number of acts or omissions. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

For each company or person you found caused or contributed to cause the occurrence in your answer to Question 10, find the percentage of responsibility attributable to each:

A. B&G Crane Service, Inc.	<u>45</u> %
B. ExxonMobil Oil Corp.	<u>45</u> %
C. AltairStrickland, Inc	<u>10</u> %
Total	100%



**QUESTION NO. 12**

What sum of money, if paid now in cash, would fairly and reasonably compensate Jorge Barron for his damages, if any, that resulted from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not include damages for one element in any other element. Do not include interest on any amount of damages you find. Do not include any amount for any condition that did not result from the occurrence in question.

Do not reduce the amounts, if any, in your answers because of percentages of the negligence, if any, of any of those listed in questions 11.

1. Physical pain sustained in the past.

Answer: 100,000

2. Physical pain that, in reasonable probability, Jorge Barron will sustain in the future.

Answer: 150,000

**QUESTION NO. 13:**

Did the negligence, if any, of any of those below proximately cause the occurrence in question?

“Negligence” means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

“Proximate cause” means a cause that was a substantial factor in bringing about an occurrence or injury, and without which cause such occurrence or injury would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using ordinary care would have foreseen that the occurrence or injury, or some similar occurrence or injury, might reasonable result therefrom. There may be more than one proximate cause of an occurrence or injury.

“Ordinary care” means that degree of care which would be used by a person of ordinary prudence under the same or similar circumstances.

Answer “Yes” or “No” for each of the following:

- a. B&G Crane Service, Inc. Yes
- b. ExxonMobil Oil Corp. Yes
- c. AltairStrickland, Inc. Yes
- d. Osiel Rocha No

**QUESTION NO. 14:**

If you answered "Yes" for B&G Crane Service, Inc., in Question 10, then answer the following question as to the claims of Osiel Rocha. Otherwise, do not answer the following question.

Assign percentages of responsibility only to those you found caused or contributed to cause the occurrence in question. The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The percentage of responsibility attributable to a person is not necessarily measured by the number of acts or omissions. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

For each person you found caused or contributed to cause the occurrence, insert answer to Question 13, find the percentage of responsibility attributable to each:

A. B&G Crane Service, Inc.	<u>45</u> %
B. ExxonMobil Oil Corp.	<u>45</u> %
C. AltairStrickland, Inc	<u>10</u> %
D. Osiel Rocha	<u>0</u> %
Total	100%

**QUESTION NO. 15:**

What sum of money, if paid now in cash, would fairly and reasonably compensate Osiel Rocha for his damages, if any, that resulted from the occurrence in question?

Consider the elements of damages listed below and none other. Consider each element separately. Do not include damages for one element in any other element. Do not include interest on any amount of damages you find. Do not include any amount for any condition that did not result from the occurrence in question.

Do not reduce the amounts, if any, in your answers because of the negligence, if any, of those listed in question 14.

1. Physical pain and mental anguish sustained in the past.

Answer: 800,000

2. Physical pain and mental anguish that, in reasonable probability, Osiel Rocha will sustain in the future.

Answer: 350,000

## PRESIDING JUROR

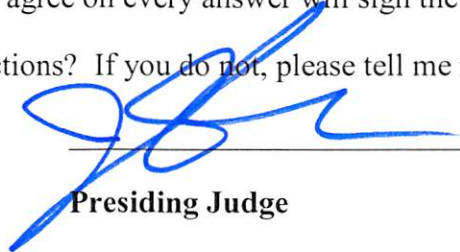
1. When you go into the jury room to answer the questions, the first thing you will need to do is choose a presiding juror.
2. The presiding juror has these duties:
  - a. have the complete charge read aloud if it will be helpful to your deliberations;
  - b. preside over your deliberations, meaning manage the discussions, and see that you follow these instructions;
  - c. give written questions or comments to the bailiff, who will give them to the judge;
  - d. write down the answers you agree on;
  - e. get the signatures for the verdict certificate; and
  - f. notify the bailiff that you have reached a verdict.

Do you understand the duties of the presiding juror? If you do not, please tell me now.

## INSTRUCTIONS FOR SIGNING THE VERDICT CERTIFICATE

1. You may answer the questions on a vote of 10 jurors. The same 10 jurors must agree on every answer in the charge. This means you may not have one group of 10 jurors agree on one answer and a different group of 10 jurors agree on another answer.
2. If 10 jurors agree on every answer, those 10 jurors sign the verdict. If 11 jurors agree on every answer, those 11 jurors sign the verdict. If all 12 of you agree on every answer, you are unanimous, and only the presiding juror signs the verdict.
3. All jurors should deliberate on every question. You may end up with all 12 of you agreeing on some answers, while only 10 or 11 of you agree on other answers. But when you sign the verdict, only those 10 who agree on every answer will sign the verdict.

Do you understand these instructions? If you do not, please tell me now.



\_\_\_\_\_

**Presiding Judge**

VERDICT CERTIFICATE

Check one:

Our verdict is unanimous. All 12 of us have agreed to each and every answer. The presiding juror has signed the certificate for all 12 of us.

Signature of Presiding Juror

Printed Name of Presiding Juror

Our verdict is not unanimous. Eleven of us have agreed to each and every answer and have signed the certificate below.

Our verdict is not unanimous. Ten of us have agreed to each and every answer and have signed the certificate below.

	SIGNATURE	NAME PRINTED
1.	<i>Angel Cabel</i>	Angel Cabel
2.	<i>Desia Diney</i>	Diana Gentry
3.	<i>[Signature]</i>	Modesty Hawthorne
4.	<i>Shirley Johnson</i>	Shirley Johnson
5.	<i>Cameron Kolb</i>	Cameron Kolb
6.	<i>Carolyn W. Rosales</i>	Carolyn Woo Rosales
7.	<i>Brenda Hatch</i>	Brenda Hatch
8.	<i>Leslie Balsamo</i>	Leslie Balsamo
9.	<i>Robert G. Graham</i>	Robert Graham
10.	<i>[Signature]</i>	Darrell Antoline
11.		

Charge

Verdict

at 9:05 FILED 9'clock A. M.

at 11:41 FILED 9'clock A. M.

SEP 11 2018

SEP 13 2018

JAMIE SMITH, DISTRICT CLERK Jefferson County, Texas BY [Signature] DEPUTY

JAMIE SMITH, DISTRICT CLERK Jefferson County, Texas BY [Signature] DEPUTY