



**FIRST JUDICIAL DISTRICT COURT  
COUNTY OF SANTA FE  
STATE OF NEW MEXICO**

MARY ANN McCONNELL, as personal representative  
of the Estate of Elizabeth Garcia, deceased, and as next  
friend of XAVIER MENDOZA, a minor, JEROME  
MENDOZA, a minor, and CENE MENDOZA, a minor,

Plaintiff,

v.

No. CV-200500045

ALLSUP'S CONVENIENCE STORES, INC.,  
A New Mexico Corporation,  
Defendant.

**SPECIAL VERDICT**

When as many as ten of you have agreed upon each of your answers to the following questions, your foreperson must sign this special verdict and you will all return to open court. On the questions submitted, the jury finds as follows:

**Defendant Allsup's**

**Question No. 1:** Did Allsup's intentionally or willfully, through its actions or failure to act, create or allow an unsafe condition?

Answer to intentional: NO (Yes or No)

Answer to willful YES (Yes or No)

*If the Answers to Question 1 are both "No" your deliberations are over and you are not to answer any more questions. Your foreperson should sign the bottom of this form to enter your verdict in favor of the defendant Allsup's.*

*If the answer to either part of Question 1 is "Yes," you may go to Question 2.*

**Question No. 2:** Did Allsup's intentional or willful act, failure to act or unsafe condition contribute to cause Elizabeth Garcia's death?

Answer: YES (Yes or No)

*If the Answer to Question 2 is "Yes," you may go to Question No. 3*

*If the Answer to Question 2 is "No," your deliberations are over and you are not to answer any more questions. Your foreperson should sign the bottom of this form and enter your verdict in favor of the defendant Allsup's.*

## **DAMAGES**

### **Compensatory Damages**

**Question No. 3:** In accordance with the damage instructions given by the court, we find the compensatory damages to be as follows:

Loss of consortium for Xavier Mendoza \$ 2,000,000

Loss of consortium for Jerome Mendoza \$ 2,000,000

Loss of consortium for Cene Mendoza \$ 2,000,000

Wrongful death of Elizabeth Garcia \$ 15,257,286.88  
(excluding children's loss of consortium)

*(Enter the total amounts of compensatory damages without any reduction for comparative fault and without any inclusion of punitive damages).*

**Question No. 4:** If you found in Question 1 that Allsup's only acted willfully and not intentionally, then compare the willful acts of Allsup's with the intentional acts of Paul Lovett and then find a percentage of willful or intentional conduct for each. If you found in question No. 1 that Allsup's acted intentionally, then please skip this question. The total of the percentages must equal 100%, but the percentage for any one or more of the persons named may be zero if you find that such person was not liable or that any act or omission on the part of such person did not contribute to cause the death of Elizabeth Garcia.

Allsup's

60 %

Paul Lovett

40 %

= 100%

The Court may award compensatory damages against Allsup's based only on its proportionate share of fault in this matter. You do not need to reduce your award by that percentage as the court may perform that calculation.

### **Punitive Damages**

**Question No. 5:** Were the acts of defendant Allsup's willful or reckless or wanton?

Answer: yes (Yes or No)

*If the answer to Question 5 is "No", you are not to answer Question No. 6. Your foreperson must sign this special verdict and you will all return to open court. If the answer to either Question No. 5 is "Yes", you are to answer Question No. 6.*

**Question No. 6:** In accordance with the exemplary or punitive damage instructions given by the court, we find the total amount of punitive damages to be awarded against Defendant Allsup's to be as follows:

\$ 30,000,000



Foreperson