

3290.1 PRODUCT LIABILITY: WIS. STAT. § 895.047: VERDICT (FOR ACTIONS COMMENCED AFTER JANUARY 31, 2011)

1. When (product) left the control of (manufacturer) and has reached the user or consumer without substantial change in the condition it was sold, was it in such a defective condition as to be unreasonably dangerous to a (user) (person) (property)?
2. If you answered "yes" to Question No. 1, then answer this question. Otherwise, do not answer it. Was the defective condition a cause of the injury?
3. Was (plaintiff) negligent with respect to (his) (her) own safety?
4. If you answered "yes" to the preceding question, then answer this question. Otherwise, do not answer it. Was (plaintiff)'s negligence a cause of the injury?

[NOTE: IF THERE IS SUFFICIENT EVIDENCE THAT PARTIES OTHER THAN A PRODUCT DEFENDANT AND PLAINTIFF WERE NEGLIGENT (SEE WIS. STAT. § 895.045(3)(a)), THEN THE JURY SHOULD ANSWER THE FOLLOWING TWO QUESTIONS FOR EACH DEFENDANT.]:

5. Was Defendant _____ negligent?
6. If you answered "yes" to the preceding question, then answer this question. Otherwise, do not answer it. Was Defendant _____'s negligence a cause of the injury?

7. If you answered "yes" to two or more of Questions No. 2 through 6, then answer this question. Otherwise, do not answer it. Assuming the total causal responsibility for the injury to be 100%, what percentage of that causal responsibility do you attribute to:

- A. Defective condition of the product _____ %
- B. Plaintiff _____ %
- C. Defendant (Non-product) _____ %

[NOTE: IF THERE IS SUFFICIENT EVIDENCE THAT ADDITIONAL DEFENDANTS ARE RESPONSIBLE FOR THE DEFECTIVE CONDITION OF THE PRODUCT (i.e., ADDITIONAL MANUFACTURERS, SEE WIS. STAT. § 895.047(1), OR SELLER/DISTRIBUTOR, SEE WIS. STAT. § 895.047(2)), THEN ADD QUESTIONS INQUIRING AS TO EACH DEFENDANT'S RESPONSIBILITY FOR THE DEFECTIVE CONDITION OF THE PRODUCT.]

8. If you answered "yes" to two or more of Questions No. 2, 4, or 6, then answer this question. Otherwise, do not answer it. Assuming the total responsibility for the defective condition of the product to be 100%, what percentage of that total responsibility do you attribute to:

- A. Product Defendant A _____ %
- B. Product Defendant B _____ %
- C. Product Defendant C _____ %

COMMENT

This instruction and comment were approved in 2012.

See Wis. Stat. § 895.047 (2011 Wisconsin Act 2).

If the case involves the liability of distributors or sellers under Wis. Stat. § 895.047(2), they should be added to the verdict.