

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

NATIONAL OILWELL VARCO, L.P.
Plaintiff and Counter-Defendant,

v.

AUTO-DRIL, INC and JAMES RAY
Defendants and Counter-Plaintiffs.

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CIVIL ACTION NO. 5:15-CV-27
Hon. Robert W. Schroeder III
United States District Judge

VERDICT FORM

It is now your duty to deliberate and to consult with one another in an effort to reach a verdict. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors. During your deliberations, do not hesitate to reexamine your own opinions and change your mind if you are convinced that you were wrong. But do not give up on your honest beliefs because the other jurors think differently, or just to finish the case.

Remember at all times, you are the judges of the facts. You have been allowed to take notes during this trial. Any notes that you took during this trial are only aids to memory. If your memory differs from your notes, you should rely on your memory and not on the notes. The notes are not evidence. If you did not take notes, rely on your independent recollection of the evidence and do not be unduly influenced by the notes of other jurors. Notes are not entitled to greater weight than the recollection or impression of each juror about the testimony.

When you go into the jury room to deliberate, you may take with you a copy of this charge, the exhibits that I have admitted into evidence, and your notes. You must select a jury foreperson to guide you in your deliberations and to speak for you here in the courtroom.

Your verdict must be unanimous. After you have reached a unanimous verdict, your jury foreperson must fill out the answers to the written questions on the verdict form and sign and date it. After you have concluded your service and I have discharged the jury, you are not required to talk with anyone about the case.

If you need to communicate with me during your deliberations, the jury foreperson should write the inquiry and give it to the court security officer. After consulting with the attorneys, I will respond either in writing or by meeting with you in the courtroom. Keep in mind, however, that you must never disclose to anyone, not even to me, your numerical division on any question.

QUESTION NO. 1

Did Auto-Dril fail to comply with the agreement?

ANSWER YES OR NO:

Answer: NO

If you answered "Yes" to Question 1, then answer the following question. Otherwise, do not answer the following question.

QUESTION 2

Was Auto-Dril's failure to comply excused?

Failure to comply by Auto-Dril is excused by NOV's previous failure to comply with a material obligation of the same agreement

Failure to comply by Auto-Dril is excused if the following circumstances occurred:

NOV –

- a. by words or conduct made a false representation or concealed material facts, and
- b. with knowledge of the facts or with knowledge or information that would lead a reasonable person to discover the facts, and
- c. with the intention that Auto-Dril would rely on the false representation or concealment in acting or deciding not to act; and

Auto-Dril –

- a. did not know and had no means of knowing the real facts; and
- b. relied to its detriment on the false representation or concealment of material facts

Answer "Yes" or "No"

Answer: _____

If you answered “Yes” to Question 1, and “No” to Question 2, then answer the following question. Otherwise, do not answer the following question.

QUESTION 3

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate NOV for its damages, if any, that resulted from Auto-Dril’s failure to comply?

Do not add any amount for interest on damages, if any.

Answer in dollars and cents for damages, if any.

Answer: \$ _____

QUESTION 4

Did NOV commit fraud against Auto-Dril?

Fraud occurs when—

1. a party makes a material misrepresentation, and
2. the misrepresentation is made with knowledge of its falsity or made recklessly without any knowledge of the truth and as a positive assertion, and
3. the misrepresentation is made with the intention that it should be acted on by the other party, and
4. the other party relies on the misrepresentation and thereby suffers injury.

A “misrepresentation” means a false statement of fact.

ANSWER YES OR NO:

Answer: yes

If you answered "Yes" to Question No. 4, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 5

By what date should Auto-Dril, in the exercise of reasonable diligence, have discovered the fraud of NOV?

Answer with a date in the blank below.

Answer: 10/21/2011

If you answered "Yes" to Question 4, then answer the following question. Otherwise, do not answer the following question.

QUESTION NO. 6

What some of money, if any, if paid now in cash, would fairly and reasonably compensate Auto-Dril for its damages, if any, that resulted from such fraud?

Do not include in your calculation of damages any amount Auto-Dril could have avoided by the exercise of reasonable care.

Answer: \$5,000,000

Answer the following question only if you answered "Yes" to Question 4, and you awarded damages in your Answer to Question 6. Otherwise do not answer the following question.

QUESTION NO. 7

Do you find by clear and convincing evidence that the harm to Auto-Dril resulted from fraud?

Clear and convincing evidence is evidence that produces in your mind a firm belief or conviction as to the truth of the matter sought to be established. It is evidence so clear, direct, weighty, and convincing as to enable you to come to a clear conviction without hesitancy.

Answer "Yes" or "No"

Answer: yes no 

Answer the following Question only if you answered “Yes” to Question 7.

QUESTION NO. 8

What sum of money, if any, if paid now in cash, should be assessed against NOV and awarded to Auto-Dril as exemplary damages, if any, for the conduct found in your response to Question 7?

“Exemplary damages” means an amount that you may in your discretion award as a penalty or by way of punishment.

Factors to consider in awarding exemplary damages, if any, are—

1. The nature of the wrong.
2. The character of the conduct involved.
3. The degree of culpability of NOV.
4. The situation and sensibilities of the parties concerned.
5. The extent to which the wrongful conduct offends a public sense of justice and propriety.

Answer: _____

Date: 4/19/2021

By: 
JURY

FINAL INSTRUCTIONS

When you have answered all of the required questions, notify the Bailiff that you have reached a verdict. I will call you back into the courtroom to examine your verdict, and to announce the verdict in open court. Shortly thereafter, I will discharge you, and you will be permitted to go about your business. Remember, after you have concluded your service and I have discharged the jury, you are not required to talk with anyone about the case.