

FILED  
TARRANT COUNTY

CAUSE NO. 348-329873-21

2023 APR -4 PM 1:29

RICHARD GRISSOM	§	IN THE DISTRICT COURT
	§	
V.	§	TARRANT COUNTY, TEXAS
	§	
RIDGEBACK GROUP, INC.	§	348TH JUDICIAL DISTRICT

THOMAS A. WILDER  
DISTRICT CLERK

COURT'S 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.

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.

**ORIGINAL**

FILED Megan  
Talley  
DATE 4/3/2023  
@ 7:14 pm

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 unless you are told otherwise. Whenever a question requires an answer other than "yes" or "no," your answer must be based on a preponderance of the evidence unless you are told otherwise.

The term "preponderance of the evidence" means the greater weight of credible evidence presented in this case. If you do not find that a preponderance of the evidence supports a "yes" answer, then answer "no." A preponderance of the evidence is not measured by the number of witnesses or by the number of documents admitted in 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.

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.

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. Unless otherwise instructed, 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.

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 Defendant discharge Plaintiff because he filed a workers' compensation claim in good faith?

There may be more than one cause for an employment decision.

Answer "Yes" or "No."

ANSWER: NO

QUESTION NO. 2:

Was Plaintiff's actual or perceived disability a motivating factor in Defendant's decision to terminate Plaintiff's employment?

"Disability" means—

1. a mental or physical impairment that substantially limits at least one major life activity; or
2. a record of such an impairment.

The term "disability" shall be construed in favor of broad coverage of individuals to the maximum extent permitted by these terms.

"Mental or physical impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as: neurological; musculoskeletal; special sense organs; respiratory (including speech organs); cardiovascular; reproductive; digestive; genitourinary; immune; circulatory; hemic; lymphatic; skin; and endocrine; or any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

"Major life activity" includes, but is not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, or working. The term also includes the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

An impairment is a disability if it substantially limits the ability to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting. Nonetheless, not every impairment will constitute a "disability."

An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

In determining whether an individual has an impairment that substantially limits a major life activity, you must not consider the helpful effects of mitigating measures, including—

1. medication, medical supplies, medical equipment, medical appliances, prosthetic limbs and devices, hearing aids, cochlear implants and other implantable hearing devices, mobility devices, and oxygen therapy equipment;
2. devices that magnify, enhance, or otherwise augment a visual image, other than eyeglasses and contact lenses that are intended to fully correct visual acuity or eliminate refractive error;
3. the use of assistive technology;
4. reasonable accommodations and auxiliary aids or services; and
5. learned behavioral or adaptive neurological modifications.

"Record of such an impairment" means that an individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

Neither an actual impairment, or the perception or belief of an impairment, either physical or mental, must not be a motivating factor for an employer's adverse action against an employee.

A "motivating factor" in an employment decision is a reason for making the decision at the time it was made. There may be more than one motivating factor for an employment decision.

If you do not believe the reason(s) Defendant has given for firing Plaintiff, you may, but are not required, to infer that Defendant was motivated by Plaintiff's disability and/or perceived disability and/or record of a disability.

Answer "Yes" or "No."

ANSWER: Yes

QUESTION NO. 3:

Did Defendant fail to provide a reasonable workplace accommodation to Plaintiff?

An employer may not refuse or fail to make a reasonable workplace accommodation to a known physical or mental limitation of an otherwise qualified individual with a disability.

The term "reasonable workplace accommodation" means—

1. modifications or adjustments to a job application process that enables an applicant with a disability to be considered for the position that the applicant desires; or
2. modifications or adjustments to the work environment, or to the manner or circumstances in which the position held or desired is customarily performed, that enables an individual with a disability to perform the essential functions of that position; or
3. modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees without disabilities.

There may be more than one reasonable workplace accommodation.

Answer "Yes" or "No."

ANSWER: Yes

If you answered "Yes" to Question No. 1 and/or Question No. 2 and/or Question No. 3, then answer Question No. 4. Otherwise, do not answer Question No. 4.

QUESTION NO. 4:

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Plaintiff for his damages, if any?

Consider the following elements of damages, if any, and none other.

Do not include interest on any amount of damages you may find.

Do not include back pay or interest in calculating compensatory damages, if any.

Answer in dollars and cents for damages, if any.

a. Back pay.

"Back pay" is that amount of wages that Plaintiff would have earned if she had not been subjected to Defendant's unlawful conduct, less any wages, unemployment compensation benefits or workers' compensation benefits she received in the interim.

Answer in dollars and cents, if any:

ANSWER: \$ 25,000.00

Compensatory damages in the past, which include emotional pain and suffering, inconvenience, humiliation, mental anguish, loss of enjoyment of life, and other noneconomic losses.

Answer in dollars and cents, if any:

ANSWER: \$0



Compensatory damages in the future, which include economic losses, emotional pain and suffering, inconvenience, humiliation, mental anguish, loss of enjoyment of life, and other noneconomic losses.

Answer in dollars and cents, if any:

ANSWER: Ø

Punitive damages

Answer the following questions only if you unanimously answered "Yes" to Question No. 1 and/or Question No. 2 and/or Question No. 3. Otherwise, do not answer the following question.

To answer "Yes" to the following question, your answer must be unanimous. You may answer "No" to the following question only upon a vote of 10 or more jurors. Otherwise, you must not answer the following question.

QUESTION NO. 5:

Do you find by clear and convincing evidence that Defendant engaged in the discriminatory employment practice that you have found in answer to Question No. 1 and/or Question No. 2 and/or Question No. 3 with malice or with reckless indifference to the right of Plaintiff to be free from such practices?

"Clear and convincing evidence" means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established.

"Malice" means a specific intent by Defendant to cause substantial injury or harm to Plaintiff.

"Reckless indifference" means Defendant's actions were taken in the face of a perceived risk that their conduct would violate state law. Plaintiff is not required to show egregious or outrageous discrimination to show that Defendant acted with reckless indifference to Plaintiff's state protected rights. However, proof that Defendant engaged in intentional discrimination is not enough in itself to justify an award of punitive damages.

Answer "Yes" or "No."

ANSWER: Yes

Answer the following Question No. 6 only if you unanimously answered "Yes" to Question No. 5. Otherwise, do not answer the Question No. 6.

You must unanimously agree on the amount of any award of exemplary damages.

QUESTION NO. 6:

What sum of money, if any, if paid now in cash, should be assessed against Defendant and awarded to Plaintiff as exemplary damages, if any, for the conduct found in response to Question No. 5?

"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—

- a. The nature of the wrong;
- b. The character of the conduct involved;
- c. The degree of culpability of Defendant;
- d. The situation and sensibilities of the parties concerned;
- e. The extent to which such conduct offends a public sense of justice and propriety; and
- f. The net worth of Defendant.

Answer in dollars and cents, if any:

ANSWER: \$60,000.00

### **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. Unless otherwise instructed, 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 or 11 of you who agree on every answer will sign the verdict.

4. There are some special instructions before Questions 5 and 6 explaining how to answer those questions. Please follow the instructions. If all 12 of you answer those questions, you will need to complete a second verdict certificate for those questions.

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

Megan Fahey  
Megan Fahey, Judge Presiding

DATE: 4/3/2023

TIME: 4:28p.m.

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.

Mark Kaiser  
Signature of Presiding Juror

Mark Kaiser  
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.

Jurors' Signatures

Jurors' Printed Names

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_
- 8. \_\_\_\_\_
- 9. \_\_\_\_\_
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If you have answered Questions 5 and/or 6, then you must sign this certificate also.

**ADDITIONAL CERTIFICATE**

I certify that the jury was unanimous in answering the following questions. All 12 of us agreed to each answer checked. The presiding juror has signed the certificate for all 12 of us.

**CHECK ALL THAT APPLY:**

Question No. 5       ✓      

Question No. 6       ✓      

(The jury was not unanimous in those questions which were not answered.)

Mark Kaiser  
Signature of Presiding Juror

Mark Kaiser  
Printed Name of Presiding Juror