

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

and

SARAH BUDD,

Intervenor-Plaintiff,

VS.

SKYWEST AIRLINES, INC.,

Defendant.

§
§
§
§
§
§
§
§
§
§
§
§
§
§
§

Civil Action No. 3:22-CV-1807-D

COURT’S CHARGE TO THE JURY

MEMBERS OF THE JURY:

Now that you have heard all of the evidence and the argument of counsel, it becomes my duty to give you the instructions of the court concerning the law applicable to this case.

It is your duty as jurors to follow the law as I shall state it to you and to apply that law to the facts as you find them from the evidence in the case. You are not to single out one instruction as stating the law, but must consider the instructions as a whole. Neither are you to be concerned with the wisdom of any rule of law stated by me.

Regardless of any opinion you may have as to what the law is or ought to be, it would be a violation of your sworn duty to base a verdict upon any view of the law other than that given in these instructions, just as it would also be a violation of your sworn duty, as judges of the facts, to base a verdict upon anything other than the evidence in the case.

32 In deciding the facts of this case, you must not be swayed by bias or prejudice or favor as
33 to any party. Our system of law does not permit jurors to be governed by prejudice or sympathy or
34 public opinion. The parties and the public expect that you will carefully and impartially consider
35 all of the evidence in the case, follow the law as stated in these instructions, and reach a just verdict
36 regardless of the consequences.

37 This case should be considered and decided by you as an action between persons of equal
38 standing in the community and holding the same or similar stations in life. The law is no respecter
39 of persons, and all persons stand equal before the law and are to be dealt with as equals in a court
40 of justice.

41 As stated earlier, it is your duty to determine the facts, and in so doing you must consider
42 only the evidence I have admitted in the case. The term “evidence” includes the sworn testimony
43 of the witnesses, including deposition witnesses, the exhibits admitted in the record, and any
44 stipulated facts. Stipulated facts must be regarded as proven facts. The term “evidence” does not
45 include anything that I have instructed you to disregard.

46 Evidence admitted before you for a limited purpose may not be considered for any purpose
47 other than the limited purpose for which it was admitted.

48 Remember that any statements, objections, or arguments made by the lawyers are not
49 evidence in the case. The function of the lawyers is to point out those things that are most
50 significant or most helpful to their side of the case and, in so doing, to call your attention to certain
51 facts or inferences that might otherwise escape your notice. In the final analysis, however, it is your
52 own recollection and interpretation of the evidence that controls in the case. What the lawyers say
53 is not binding upon you. If an attorney’s question contained an assertion of fact that the witness did

54 not adopt, the assertion is not evidence of that fact.

55 You are not bound by any opinion that you might think I have concerning the facts of this
56 case, and if I have in any way said or done anything that leads you to believe that I have any opinion
57 about the facts in this case, you are instructed to disregard it. Further, nothing in these instructions
58 to you is made for the purpose of suggesting or conveying to you an intimation as to what verdict
59 I think you should find.

60 Although you should consider only the evidence in the case, you are permitted to draw such
61 reasonable inferences from the testimony and exhibits as you feel are justified in the light of
62 common experience. In other words, you may make deductions and reach conclusions that reason
63 and common sense lead you to draw from the facts established by the evidence in the case.

64 You should not be concerned about whether the evidence is direct or circumstantial. “Direct
65 evidence” exists when the evidence directly establishes the facts that a party asserts to be true, such
66 as by an eyewitness or in a document. “Circumstantial evidence” is proof of a chain of facts and
67 circumstances that, without going directly to prove the existence of an essential fact, gives rise to
68 a logical inference that such fact does actually exist. The law makes no distinction between the
69 weight you may give to either direct or circumstantial evidence.

70 Now, I have said that you must consider all of the evidence. This does not mean, however,
71 that you must accept all of the evidence as true or accurate.

72 You are the sole judges of the “credibility” or believability of each witness and the weight
73 to be given to the witness’ testimony. In weighing the testimony of a witness, you should consider
74 the witness’ relationship to a particular party; the witness’ interest, if any, in the outcome of the
75 case; the witness’ manner of testifying; the witness’ opportunity to observe or acquire knowledge

76 concerning the facts about which the witness testified; the witness' candor, fairness, and
77 intelligence; and the extent to which the witness' testimony has been supported or contradicted by
78 other credible evidence. You may, in short, accept or reject the testimony of any witness, in whole
79 or in part.

80 Also, the weight of the evidence is not necessarily determined by the number of witnesses
81 testifying as to the existence or nonexistence of any fact. You may find that the testimony of a
82 smaller number of witnesses as to any fact is more credible than the testimony of a larger number
83 of witnesses to the contrary.

84 A witness may be "impeached" or discredited by contradictory evidence, by a showing that
85 the witness testified falsely concerning a material matter, or by evidence that at some other time the
86 witness said or did something, or failed to say or do something, that is inconsistent with the witness'
87 present testimony. If you believe that any witness has been so impeached, it is your exclusive
88 province to give the testimony of that witness such credibility or weight, if any, as you think it
89 deserves.

90 You should keep in mind, of course, that a simple mistake by a witness does not necessarily
91 mean that the witness was not telling the truth as the witness remembers it, because people naturally
92 tend to forget some things or remember other things inaccurately. So, if a witness has made a
93 misstatement, you need to consider whether that misstatement was simply an innocent lapse of
94 memory or an intentional falsehood, and that may depend on whether it has to do with an important
95 fact or with only an unimportant detail.

96 Certain testimony has been presented to you through a deposition. A deposition is the sworn,
97 recorded answers to questions asked a witness in advance of the trial. Before this trial, attorneys

98 representing the parties in this case questioned the witness under oath. A court reporter was present
99 and recorded the testimony. This deposition testimony is entitled to the same consideration and is
100 to be judged by you as to credibility, and weighed and otherwise considered by you insofar as
101 possible, in the same way as if the witness had been present and had testified from the witness stand
102 in court.

103 Deposition testimony can be introduced for the purpose of impeaching or discrediting a
104 witness. If, in the deposition, the witness made any statements in conflict with testimony the witness
105 gave in court, you may consider such conflicts and any explanation therefor in determining the
106 witness' credibility.

107 The rules of evidence provide that if scientific, technical, or other specialized knowledge will
108 help the jury to understand the evidence or to determine a fact in issue, a witness who is qualified
109 by knowledge, skill, experience, training, or education may testify and state an opinion concerning
110 such matters if the testimony is based on sufficient facts or data, the testimony is the product of
111 reliable principles and methods, and the witness' opinion reflects a reliable application of the
112 principles and methods to the facts of the case.

113 You should consider each opinion received in evidence in this case and give it such weight
114 as you may think it deserves. If you decide that the opinion is not based on sufficient knowledge,
115 skill, experience, training, or education, or if you conclude that the reasons given in support of the
116 opinion are not sound, or that the opinion is not based on sufficient facts or data, or that the opinion
117 is outweighed by other evidence, or that the opinion is not the product of reliable principles and
118 methods, or that the witness' opinion does not reflect a reliable application of the principles and
119 methods to the facts in the case, then you may disregard the opinion entirely.

120 Plaintiffs have the burden of proving their case by a “preponderance of the evidence.” To
121 establish by a preponderance of the evidence means to prove something is more likely so than not
122 so. If you find that plaintiffs have failed to prove any element of their claim by a preponderance of
123 the evidence, then they may not recover on that claim.

124 In determining whether any fact in issue has been proved by a preponderance of the
125 evidence, the jury may consider the testimony of all the witnesses, including deposition witnesses,
126 regardless of who may have called them, and all the exhibits received in evidence, regardless of who
127 may have produced them.

128 As used in this charge, the term “EEOC” means plaintiff Equal Employment Opportunity
129 Commission; the term “Budd” means intervenor-plaintiff Sarah Budd; the term “plaintiffs” means
130 the EEOC and Budd, collectively; and the term “SkyWest” means defendant SkyWest Airlines, Inc.

131 As a corporation, SkyWest can only act through natural persons as its agents or employees.
132 In general, any agent or employee of a corporation may bind the corporation by acts and declarations
133 made while acting within the course and scope of the authority delegated to the agent or employee
134 by the corporation, or within the scope of the person’s duties as an employee of the corporation.

135 PLAINTIFFS’ HOSTILE WORK ENVIRONMENT CLAIM

136 Plaintiffs claim that Budd was subjected to a sexually hostile work environment by her
137 coworkers and that their employer, SkyWest, knew, or in the exercise of reasonable care should have
138 known, of the harassment but did not take prompt remedial action.

139 SkyWest denies plaintiffs’ claim. SkyWest contends that Budd was not subjected to a
140 sexually hostile work environment and that it did not fail to take prompt remedial action to stop the

141 harassment once reported by Budd.

142 It is unlawful for an employer to fail to take remedial action when the employer knew, or
143 should have known, that a coworker sexually harassed an employee.

144 For SkyWest to be liable for sexual harassment, plaintiffs must prove by a preponderance
145 of the evidence that SkyWest employees engaged in sexual harassment and:

146 1. the conduct was sufficiently severe or pervasive to:

147 a. alter the terms or conditions of Budd's employment; and

148 b. create a hostile or abusive work environment; and

149 2. SkyWest knew, or in the exercise of reasonable care should have known, that Budd was
150 being sexually harassed. To make this showing, plaintiffs must prove that:

151 a. The harassment was known by or communicated to a person who had the authority
152 to receive, address, or report the complaint, even if that person did not do so, or the
153 harassment was so open and obvious that SkyWest should have known of it; and

154 b. SkyWest failed to take prompt remedial action designed to stop the harassment.

155 To determine whether the conduct in this case rises to a level that altered the terms or
156 conditions of Budd's employment, you should consider all of the circumstances, including: the
157 frequency of the conduct; its severity; whether it was physically threatening or humiliating, or a
158 mere offensive utterance; and whether it unreasonably interfered with Budd's work performance.

159 There is no requirement that the conduct be psychologically injurious.

160 Harassment may include extremely insensitive conduct based on sex. Although sexual
161 harassment must be based on sex, it need not be motivated by sexual desire. Simple teasing, offhand
162 comments, sporadic use of offensive language, occasional jokes related to sex, and isolated incidents

163 (unless extremely serious) will generally not amount to discriminatory changes in the terms and
164 conditions of employment. But discriminatory intimidation, ridicule, or other verbal or physical
165 conduct because of Budd's sex may be sufficiently extreme to alter the terms and conditions of
166 employment.

167 In determining whether a hostile work environment existed, you must consider the evidence
168 from both Budd's perspective and from the perspective of a reasonable person. First, Budd must
169 actually find the conduct offensive. Next, you must look at the evidence from the perspective of a
170 reasonable person's reaction to a similar environment under similar circumstances. You cannot
171 view the evidence from the perspective of an overly sensitive person. Nor can you view the
172 evidence from the perspective of someone who is never offended. Rather, the alleged harassing
173 behavior must be such that a reasonable person in the same or similar circumstances as Budd would
174 find the conduct offensive.

175 "Prompt remedial action" is conduct by the employer that is reasonably calculated to stop
176 the harassment and remedy the situation. Whether the employer's actions were prompt and remedial
177 depends on the facts. You may look at, among other things, the effectiveness of any actions taken.

178 QUESTION NO. 1:

179 Did the employees of SkyWest sexually harass Budd because of her sex?

180 Instruction: Plaintiffs have the burden of proof. If they have met their
181 burden, answer "Yes"; otherwise, answer "No."

182 ANSWER: Yes

183 If you have answered Question No. 1 “Yes,” answer Question No. 2. Otherwise, proceed
184 to the instructions concerning “plaintiffs’ retaliation claim.”

185 QUESTION NO. 2:

186 Did SkyWest know, or in the exercise of reasonable care should SkyWest have known, that
187 Budd was being sexually harassed?

188 Instruction: Plaintiffs have the burden of proof. If they have met their
189 burden, answer “Yes”; otherwise, answer “No.”

190 ANSWER: Yes

191 If you have answered Question No. 2 “Yes,” answer Question No. 3. Otherwise, proceed
192 to the instructions concerning “plaintiffs’ retaliation claim.”

193 QUESTION NO. 3:

194 Did SkyWest fail to take prompt remedial action?

195 Instruction: Plaintiffs have the burden of proof. If they have met their
196 burden, answer “Yes”; otherwise, answer “No.”

197 ANSWER: Yes

198 PLAINTIFFS' RETALIATION CLAIM

199 Plaintiffs claim that Budd was retaliated against by SkyWest for engaging in activity
200 protected by Title VII of the Civil Rights Act of 1964, a federal law. Plaintiffs claim that Budd
201 complained of a sexually hostile work environment. Plaintiffs claim that SkyWest retaliated against
202 Budd by keeping her on indefinite administrative leave.

203 SkyWest denies plaintiffs' claim and contends that keeping Budd on a paid administrative
204 leave of absence was not an adverse employment action but for Budd's complaint of sexual
205 harassment.

206 It is unlawful for an employer to retaliate against an employee for engaging in activity
207 protected by Title VII. To prove unlawful retaliation, plaintiffs must prove by a preponderance of
208 the evidence that:

- 209 1. Budd complained of a sexually hostile work environment;
- 210 2. SkyWest kept Budd on indefinite administrative leave;
- 211 3. Being kept on indefinite administrative leave was an adverse employment action; and
- 212 4. SkyWest's decision to keep Budd on indefinite administrative leave was on account of
213 her complaint of a sexually hostile work environment.

214 An adverse employment action is one that a reasonable employee would have found to be
215 materially adverse. In the retaliation context, a materially adverse action is one that well might
216 have dissuaded a reasonable worker from making or supporting a charge of discrimination.

217 You need not find that the only reason for SkyWest's decision was Budd's complaint of a
218 sexually hostile work environment. But you must find that SkyWest's decision to keep Budd on
219 indefinite administrative leave would not have occurred in the absence of—but for—her complaint.

220 If you disbelieve the reason SkyWest has given for its decision, you may, but are not
221 required to, infer that SkyWest would not have decided to keep Budd on indefinite administrative
222 leave but for her engaging in the protected activity.

223 QUESTION NO. 4:

224 Do you find that Skywest took an adverse employment action against Budd when she was
225 kept on indefinite administrative leave?

226 Instruction: Plaintiffs have the burden of proof. If they have met their
227 burden, answer "Yes"; otherwise, answer "No."

228 ANSWER: No

229 If you have answered Question No. 4 "Yes," answer Question No. 5. Otherwise, proceed
230 to the instructions concerning "damages," unless you have answered Question No. 3 "No" or you
231 have not answered Question No. 3 because an answer was not required under these instructions.

232 QUESTION NO. 5:

233 Do you find that Budd would not have been kept on indefinite administrative leave but for
234 her complaint of sexual harassment?

235 Instruction: Plaintiffs have the burden of proof. If they have met their
236 burden, answer "Yes"; otherwise, answer "No."

237 ANSWER: _____

238 If you have answered Question No. 3 or 5 “Yes,” proceed to the instructions concerning
239 “damages.” Otherwise, proceed to the instructions concerning “jury deliberations.”

240 DAMAGES

241 If you find that plaintiffs have proved their claims against SkyWest by a preponderance of
242 the evidence, you must determine the damages to which Budd is entitled.

243 You should not interpret the fact that I am giving you instructions about damages as an
244 indication in any way that I believe that plaintiffs should, or should not, win this case. It is your first
245 task to decide whether SkyWest is liable. I am instructing you on damages only so that you will
246 have guidance in the event you decide that Skywest is liable and that Budd is entitled to recover
247 money from Skywest.

248 Plaintiffs must prove Budd’s damages by a preponderance of the evidence. Your award must
249 be based on evidence and not on speculation or guesswork. On the other hand, plaintiffs need not
250 prove the amount of Budd’s losses with mathematical precision, but only with as much
251 definitiveness and accuracy as the circumstances permit.

252 Compensatory Damages

253 If you find that plaintiffs have proved a claim, then you must determine an amount that is
254 fair compensation for all of Budd’s damages. These damages are called compensatory damages.
255 The purpose of compensatory damages is to make Budd whole—that is, to compensate her for the
256 damages she has suffered.

257 You may award compensatory damages only for injuries that plaintiffs prove by a
258 preponderance of the evidence were caused by SkyWest’s allegedly unlawful conduct. The damages

259 that you award must be fair compensation for all of Budd's damages, no more and no less.
260 Compensatory damages are not allowed as a punishment and cannot be imposed or increased to
261 penalize SkyWest. You should not award compensatory damages for speculative injuries, but only
262 for those injuries that Budd has actually suffered or that she is reasonably likely to suffer in the
263 future.

264 If you decide to award compensatory damages, you should be guided by dispassionate
265 common sense. Computing damages may be difficult, but you must not let that difficulty lead you
266 to engage in arbitrary guesswork. On the other hand, the law does not require that plaintiffs prove
267 the amount of Budd's losses with mathematical precision, but only with as much definiteness and
268 accuracy as the circumstances permit.

269 You must use sound discretion in fixing an award of damages, drawing reasonable inferences
270 where you find them appropriate from the facts and circumstances in evidence.

271 You may award compensatory damages for emotional pain and suffering, inconvenience,
272 mental anguish, and loss of enjoyment of life, if you find that any such damages were caused by
273 SkyWest's allegedly unlawful conduct. Emotional harm is not to be presumed. To prove that Budd
274 suffered emotional harm, plaintiffs must establish the existence, nature, and severity of the
275 emotional harm. In other words, there must be some specific discernible injury to her emotional
276 state. Emotional harm may manifest itself through sleeplessness, anxiety, stress, depression, marital
277 strain, humiliation, emotional distress, loss of self esteem, excessive fatigue, or a nervous
278 breakdown. It may also be exhibited through physical symptoms such as gastrointestinal disorders,
279 hair loss, headaches, and similarly serious maladies.

280 No evidence of the monetary value of such intangible things as pain and suffering,

281 inconvenience, mental anguish, and loss of enjoyment of life need be introduced in evidence. There
282 is no exact standard for fixing the compensation to be awarded for these elements of damage. Any
283 award you make should be fair in light of the evidence presented at the trial. Mental anguish implies
284 a relatively high degree of mental pain and distress. It is more than mere disappointment, anger,
285 resentment, or embarrassment, although it may include all of these. It includes a mental sensation
286 of pain resulting from such painful emotions as grief, severe disappointment, indignation, wounded
287 pride, shame, despair, or public humiliation.

288 If you find in favor of plaintiffs, SkyWest is responsible for any and all damages resulting
289 from the sexual harassment or retaliation. This is so even if the mental or emotional condition or
290 other characteristics of Budd prior to her employment by Skywest at DFW made her more
291 susceptible to suffer greater injury than a person without the mental or emotional condition or
292 characteristics would have suffered under the same circumstances. This is because, under the law,
293 when a defendant's wrongful act causes injury, the defendant is fully liable for the resulting damage,
294 even though the injured plaintiff had a preexisting condition that made the consequences of the
295 wrongful act more severe than they would have been for a normal victim. Stated summarily, the
296 defendant takes the plaintiff as it finds her.

297 QUESTION NO. 6:

298 What sum of money, if paid now in cash, would fairly and reasonably compensate Budd for
299 her damages, if any, you have found SkyWest caused Budd?

300 Instruction: Plaintiffs have the burden of proof by a preponderance
301 of the evidence. Answer in dollars and cents, if any. Consider the
302 elements of damages listed below and none other. Consider each
303 element separately. Do not include damages for one element in any
304 other element. Do not include interest on any amount of damages
305 you find.

306 ANSWER:

307 1. Compensatory damages in the past, which include emotional pain
308 and suffering, inconvenience, mental anguish, and loss of enjoyment
309 of life.

310 \$150,000⁰⁰
311

312 2. Compensatory damages in the future, which include emotional
313 pain and suffering, inconvenience, mental anguish, and loss of
314 enjoyment of life.

315 \$20,000⁰⁰
316

317 Punitive Damages

318 In addition to actual compensatory damages, you may consider whether to award punitive
319 damages. Punitive damages are designed to punish a defendant and to deter similar conduct in the future.

320 You may award punitive damages on plaintiffs' claim that SkyWest subjected Budd to a
321 sexually hostile work environment if you find that plaintiffs have proved by a preponderance of the
322 evidence that: (1) Kelly Dehais, Dustin Widmer, or Dallin Hansen was aware of and had authority
323 to remedy the hostile work environment; and (2) Kelly Dehais, Dustin Widmer, or Dallin Hansen

324 acted with malice or reckless indifference to Budd's federally protected right to be free from
325 working in a hostile environment and (2) acted with malice or reckless indifference to Budd's
326 federally protected right to be free from working in a hostile environment.

327 You may award punitive damages on plaintiffs' retaliation claim if plaintiffs prove by a
328 preponderance of the evidence that: (1) the person who engaged in the discriminatory act or practice was
329 acting in a managerial capacity; (2) the person engaged in the discriminatory act or practice while acting
330 in the scope of the person's employment; and (3) the person acted with malice or reckless indifference
331 to Budd's federally protected right to be free of discrimination.

332 If plaintiffs have proved these facts, then you may award punitive damages, unless SkyWest
333 proves by a preponderance of the evidence that the alleged sexual harassment was contrary to its
334 good-faith efforts to prevent discrimination in the workplace.

335 In determining whether any of SkyWest's employees was a supervisor or manager for
336 SkyWest, you should consider the type of authority that the employee in question had over Budd and
337 the type of authority for employment decisions SkyWest authorized that employee to make.

338 Acting with "malice" means to purposefully or knowingly violate another's rights.

339 An action is in "reckless indifference" to Budd's federally protected rights if it was taken in
340 the face of a perceived risk that the conduct would violate federal law.

341 Plaintiffs are not required to show egregious or outrageous discrimination to recover punitive
342 damages. Proof that SkyWest engaged in intentional discrimination, however, is not enough in itself
343 to justify an award of punitive damages.

344 In determining whether SkyWest made good-faith efforts to prevent discrimination in the
345 workplace, you may consider whether it adopted antidiscrimination policies, whether it educated its

346 employees on the federal antidiscrimination laws, how it responded to Budd's complaint of
347 discrimination, and how it responded to other complaints of discrimination.

348 If you find that SkyWest acted with malice or reckless indifference to Budd's rights and did
349 not make a good-faith effort to comply with the law, then in addition to any other damages you find
350 Budd is entitled to receive, you may, but are not required to, award Budd an additional amount as
351 punitive damages for the purposes of punishing SkyWest for engaging in such wrongful conduct and
352 deterring SkyWest and others from engaging in such conduct in the future.

353 You should presume that Budd has been made whole for her injuries by any compensatory
354 damages you have awarded.

355 If you decide to award punitive damages, you should consider the following in deciding the
356 amount:

357 1. How reprehensible SkyWest's conduct was. You may consider whether the harm Budd
358 suffered was physical or economic or both; whether there was violence, intentional malice,
359 or reckless disregard for human health or safety; whether SkyWest's conduct that harmed
360 Budd also posed a risk of harm to others; whether there was any repetition of the wrongful
361 conduct or there was past conduct of the same sort that harmed Budd.

362 2. How much harm SkyWest's wrongful conduct caused Budd and could cause her in the
363 future.

364 3. What amount of punitive damages, in addition to the other damages already awarded, is
365 needed, considering SkyWest's financial condition, to punish SkyWest for its conduct
366 toward Budd and to deter SkyWest and others from similar wrongful conduct in the future.

367 The amount of any punitive damages award should bear a reasonable relationship to the harm

368 caused Budd.

369 QUESTION NO. 7:

370 Do you find that Budd should be awarded punitive damages?

371 Instruction: Plaintiffs have the burden of proof, except that SkyWest
372 must prove that the alleged sexual harassment or retaliation, if any,
373 was contrary to its good-faith efforts to prevent discrimination in the
374 workplace. If plaintiffs have met their burden and SkyWest has not
375 met its burden, answer “Yes”; otherwise, answer “No.”

376 ANSWER: Yes

377 If you have answered Question No. 7 “Yes,” answer Question No. 8; otherwise, proceed
378 to the instructions concerning “jury deliberations.”

379 QUESTION NO. 8:

380 What sum of money should be assessed against SkyWest as punitive damages?

381 Instruction: Plaintiffs have the burden of proof. Answer in dollars
382 and cents, if any.

383 ANSWER: \$2,000,000⁰⁰

384

385 Jury Deliberations

386 The fact that I have given you in this charge instructions about a particular claim, or that I
387 have not so instructed you, should not be interpreted in any way as an indication that I believe a
388 particular party should, or should not, win this case.

389 In order to return a verdict your verdict must be unanimous. It is your duty as jurors to

390 consult one another and to deliberate with a view towards reaching an agreement. Each of you must
391 decide the case for yourself, but only after an impartial consideration with each other of all the
392 evidence in the case. In the course of your deliberations, do not hesitate to reexamine your own
393 view and change your opinion if convinced it is erroneous. Do not, however, surrender your honest
394 conviction as to the weight or effect of the evidence solely because of the opinion of other jurors or
395 for the mere purpose of returning a verdict. Remember at all times that you are not partisans. You
396 are judges—judges of the facts. Your sole interest is to seek the truth from the evidence in the case.

397 After I finish reading this charge, you will retire to the jury room. I will send you the
398 exhibits that have been admitted into evidence. You will first select one member of the jury to act
399 as presiding juror. The presiding juror will preside over your deliberations and will speak on your
400 behalf here in court.

401 Do not deliberate unless all members of the jury are present in the jury room. In other words,
402 if one or more of you go to lunch together or are together outside the jury room, do not discuss the
403 case.

404 When you have reached unanimous agreement as to your verdict, the presiding juror shall
405 fill in your answers to the questions on a copy of the charge that I will provide to you for this
406 purpose, shall date and sign the last page of that copy of the charge, and shall notify the court
407 security officer that you have reached a verdict. The court security officer will then deliver the
408 verdict to me.

409 The court will honor the schedule you set for your deliberations and your requests for breaks
410 during your deliberations. From time to time I may communicate with you concerning your
411 schedule. This is done primarily for the purpose of anticipating the court's staffing needs, and is not

412 in any way intended to suggest that your deliberations should be conducted at a different pace or on
413 a different schedule.

414 During the trial, the court reporter made a verbatim record of the proceedings. The court
415 rules do not provide for testimony to be produced for the jury in written form, or for testimony to
416 be read back to the jury as a general aid in refreshing the jurors' memories. In limited
417 circumstances, the court may direct the court reporter to read testimony back to the jury in open
418 court. This is done, however, only when the jury certifies that it disagrees as to the testimony of a
419 particular witness, and identifies the specific testimony in dispute.

420 If, during your deliberations, you desire to communicate with me, your presiding juror will
421 reduce your message or question to writing, sign it, and pass the note to the court security officer,
422 who will bring it to my attention. I will then respond as promptly as possible, either in writing or
423 by asking you to return to the courtroom so that I can address you orally. If you do send a message
424 or ask a question in which you indicate that you are divided, never state or specify your numerical
425 division at the time.

426 November 19, 2024.

427

428

429

430


SIDNEY A. FITZWATER
SENIOR JUDGE

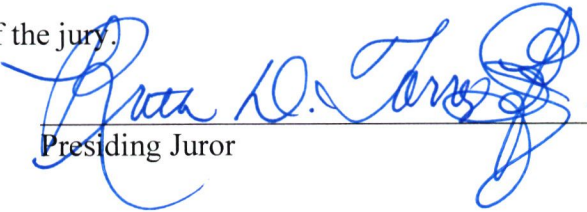
431

The foregoing is the unanimous verdict of the jury.

432

Dated: November 20, 2024

433



Presiding Juror