

**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

TAMERA EDWARDS,

Plaintiff,

v.

DES MOINES INDEPENDENT  
COMMUNITY SCHOOL DISTRICT a/k/a  
DES MOINES PUBLIC SCHOOLS,

Defendant.

LAW NO. LACL139450

**JURY INSTRUCTIONS**FILED  
2019 AUG -2 PM 2:52  
CLERK OF DISTRICT COURT

**INSTRUCTION NO. 1**

My duty is to tell you what the law is. Your duty is to accept and apply this law.

You must consider all of the instructions together because no one instruction includes all of the applicable law.

The order in which I give these instructions is not important.

Your duty is to decide all fact questions.

Do not be influenced by any personal likes or dislikes, sympathy, bias, prejudices or emotions. Because you are making very important decisions in this case, you are to evaluate the evidence carefully and avoid decisions based on generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your reason and common sense, and these instructions. As jurors, your sole duty is to find the truth and do justice.

**INSTRUCTION NO. 2**

Whenever a party must prove something they must do so by the preponderance of the evidence.

Preponderance of the evidence is evidence that is more convincing than opposing evidence. Preponderance of the evidence does not depend upon the number of witnesses testifying on one side or the other.

**INSTRUCTION NO. 3**

You shall base your verdict only upon the evidence and these instructions.

Evidence is:

1. Testimony in person or by deposition.
2. Exhibits received by the court.
3. Stipulations which are agreements between the attorneys.
4. Any other matter admitted.

Evidence may be direct or circumstantial. The weight to be given any evidence is for you to decide.

Sometimes, during a trial, references are made to pre-trial statements and reports, witnesses' depositions, or other miscellaneous items. Only those things formally offered and received by the court are available to you during your deliberations. Documents or items read from or referred to which were not offered and received into evidence, are not available to you.

The following are not evidence:

1. Statements, arguments, questions and comments by the lawyers.
2. Objections and rulings on objections.
3. Any testimony I told you to disregard.
4. Anything you saw or heard about this case outside the courtroom.

**INSTRUCTION NO. 4**

You will decide the facts from the evidence. Consider the evidence using your observations, common sense and experience. You must try to reconcile any conflicts in the evidence; but, if you cannot, you will accept the evidence you find more believable.

In determining the facts, you may have to decide what testimony you believe. You may believe all, part or none of any witnesses' testimony.

There are many factors which you may consider in deciding what testimony to believe, for example:

1. Whether the testimony is reasonable and consistent with other evidence you believe;
2. The witnesses' appearance, conduct, age, intelligence, memory and knowledge of the facts; and,
3. The witnesses' interest in the trial, their motive, candor, bias and prejudice.

**INSTRUCTION NO. 5**

You have heard evidence claiming a party made statements before this trial while under oath and while not under oath.

If you find such a statement was made, you may regard the statement as evidence in this case the same as if the statement had been made under oath during the trial.

If you find such a statement was made and was inconsistent with the party's testimony during the trial you may also use the statement as a basis for disregarding all or any part of the party's testimony during the trial but you are not required to do so. You should not disregard the party's testimony during the trial if other credible evidence supports it or if you believe it for any other reason.

**INSTRUCTION NO. 6**

During this trial, you have heard the word “interrogatory.” An interrogatory is a written question asked by one party of another, who must answer it under oath in writing. Consider interrogatories and the answers to them as if the questions had been asked and answered here in court.

**INSTRUCTION NO. 7**

Certain testimony has been submitted into evidence from a deposition. As I stated before, a deposition is testimony taken under oath before the trial and preserved in writing or in video. Consider that testimony as if it had been given in court.

**INSTRUCTION NO. 8**

The fact that Des Moines Public Schools is a school district should not affect your decision. All person are equal before the law, and corporations and organizations, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

**INSTRUCTION NO. 9**

An employer is free to terminate an employee's employment for any nonretaliatory reason even if its business judgment seems objectively unwise. Therefore, you may not return a verdict for the plaintiff just because you might disagree with Des Moines Public Schools' actions or believe them to be harsh or unreasonable.

**INSTRUCTION NO. 10**

In order to prevail on her claim against Des Moines Public Schools, Plaintiff must prove all of the following propositions:

1. Plaintiff was an employee of Des Moines Public Schools.
2. Des Moines Public Schools discharged Plaintiff from employment.
3. Plaintiff's filing of complaint with the Iowa Occupational Safety and Health Administration was the determining factor in Des Moines Public Schools's decision to discharge Plaintiff.
4. The discharge was a cause of damage to Plaintiff.
5. The nature and extent of the damage.

A determining factor need not be the main reason behind the decision. It need only be the reason which tips the scales decisively one way or the other.

The conduct of a party is a cause of damage when the damage would not have happened except for the conduct.

If the Plaintiff has failed to prove any of these propositions, the Plaintiff is not entitled to damages from Des Moines Public Schools. If the Plaintiff has proved all of these propositions, the Plaintiff is entitled to damages from Des Moines Public Schools in some amount.

The parties have stipulated, or agreed, that Plaintiff was an employee of Des Moines Public Schools.

**INSTRUCTION NO. 11**

There is evidence that Plaintiff was an employee at will. An employee at will may be terminated at any time for any reason, except if it is contrary to the public policy of this state. It is against the public policy of the state to discharge an employee for making a complaint to the Iowa Occupational Safety and Health Administration.

**INSTRUCTION NO. 12**

You may find that Plaintiff's complaint to the Iowa Occupational Safety and Health Administration was a determining factor in Des Moines Public Schools' decision to discharge her if it has been proved that the Des Moines Public Schools' stated reason for its decision is not the real reason, but is a pretext to hide retaliation.

**INSTRUCTION NO. 13**

If you find Plaintiff is entitled to recover damages under Instruction No. 10, you shall consider the following items:

1. Mental Pain and Suffering – Past.
2. Mental Pain and Suffering – Future.
3. Lost Wages—Past.
4. Lost Wages—Future.

The amount you assess for mental pain and suffering in the past and/or future cannot be measured by any exact or mathematical standard. You must use your sound judgment based upon an impartial consideration of the evidence. Your judgment must not be exercised arbitrarily, or out of sympathy or prejudice, for or against the parties. The amount you assess for any item of damage must not exceed the amount caused by a party as proved by the evidence.

A party cannot recover duplicate damages. Do not allow amounts awarded under one item of damages to be included in any amount awarded under another item of damage.

The amounts, if any, you find for each of the above items will be used to answer the verdict.

**INSTRUCTION NO. 14**

Mental pain and suffering from the date of the end of Plaintiff's employment to the present time.

Mental pain and suffering may include, but is not limited to, mental anguish or loss of enjoyment of life.

**INSTRUCTION NO. 15**

The present value of future mental pain and suffering.

Mental pain and suffering may include, but is not limited to, mental anguish or loss of enjoyment of life.

**INSTRUCTION NO. 16**

Edwards seeks damages for past lost wages. Past lost wages is defined as the amount of any wages that Edwards would have earned from the date her employment with Des Moines Public Schools ended until the date of your verdict, minus the wages, if any, that she actually did earn during that time from other employment after her job with Des Moines Public Schools ended.

Edwards seeks damages for future lost wages. You may award future lost wages if Edwards has proven that she would have been employed by Des Moines Public Schools subsequent to the date of your verdict had it not been for her complaint to the Occupational Safety and Health Administration. You may award future lost wages for the likely duration of Edwards' employment at DMPS based on the evidence at trial. Future lost wages are the difference between Edwards' wages at Des Moines Public Schools and her wages at any new job for that period. This amount must then be reduced to present value, as defined by Instruction No. 16.17.

**INSTRUCTION NO. 17**

Future damages must be reduced to present value. "Present value" is a sum of money paid now in advance which, together with interest earned at a reasonable rate of return, will compensate the Plaintiff for future losses.

**INSTRUCTION NO. 18**

You are also instructed that the plaintiff has a duty under the law to “mitigate” her damages—that is, to exercise reasonable diligence under the circumstances to minimize her damages. Therefore, if you find that the plaintiff failed to seek out or take advantage of an opportunity that was reasonably available to her, you must reduce her damages by the amount she reasonably could have avoided if she had sought out or taken advantage of such an opportunity.

**INSTRUCTION NO. 19**

In arriving at an item of damage you cannot arrive at a figure by taking down the estimate of each juror as to an item of damage, and agreeing in advance that the average of those estimates shall be your item of damage.

**INSTRUCTION NO. 20**

If you find in favor of Plaintiff under Instruction No. 10, but you find that the Plaintiff's damages have no monetary value, then you must return a verdict for the Plaintiff in the nominal amount of One Dollar (\$1.00).

**INSTRUCTION NO. 21**

Upon retiring you shall select a foreperson. It will be his or her duty to see discussion is carried on in an orderly fashion, the issues are fully and freely discussed, and each juror is given an opportunity to express his or her views.

Your attitude at the beginning of your deliberations is important. It is not a good idea for you to take a position before thoroughly discussing the case with the other jurors. If you do this, individual pride may become involved and you may later hesitate to change an announced position even if shown it may be incorrect. Remember you are not partisans or advocates, but are judges – judges of the facts. Your sole interest is to find the truth and do justice.

**INSTRUCTION NO. 22**

During the trial, you have been allowed to take notes. You may take these with you to the jury room to use in your deliberations. Remember, these are notes and not evidence. Generally, they reflect the recollections or impressions of the evidence as viewed by the person taking them, and they may be inaccurate or incomplete. Upon reaching your verdicts, leave the notes in the jury room and they will be destroyed.

**INSTRUCTION NO. 23**

You may not communicate about this case before reaching your verdict. This includes cell phones, and electronic media such as text messages, Facebook, MySpace, LinkedIn, YouTube, Twitter, email, etc.

Do not do any research or make any investigation about this case on your own. Do not visit or view any place discussed in this case, and do not use Internet maps or Google Earth or any other program or device to search for or to view any place discussed in the testimony. Also, do not research any information about this case, the law, or the people involved, including the parties, the witnesses, the lawyers, or the judge. This includes using the Internet to research events or people referenced in the trial.

This case shall be decided on evidence that was presented in the courtroom. If you conduct independent research, you will be relying on matters not presented in court. The parties have a right to have this case decided on the evidence they know about and that has been introduced here in court. If you do some research or investigation or experiment that we do not know about, then your verdict may be influenced by inaccurate, incomplete or misleading information that has not been tested by the trial process, including the oath to tell the truth and by cross-examination. All of the parties are entitled to a fair trial, rendered by an impartial jury, and you must conduct yourself so as to maintain the integrity of the trial process. If you decide a case based on information not presented in court, you will have denied the parties a fair trial in accordance with the rules of this state and you will have done an injustice. It is very important that you abide by these rules.

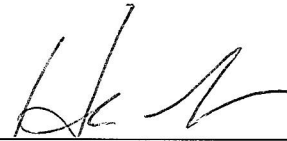
**INSTRUCTION NO. 24**

I am giving you a verdict form. During the first six hours of deliberations, excluding meals and recesses outside your jury room, your decision must be unanimous. If you all agree, the verdict must be signed by your foreman or forewoman.

After deliberating for six hours from 10:30 o'clock A.m., excluding meals or recesses outside your jury room, then it is necessary that only seven of you agree upon the answers to the questions. In that case, the verdict must be signed by all seven jurors who agree.

When you have agreed upon the verdict and appropriately signed it, tell the Court Attendant.

Dated this 2 day of August, 2019.



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HEATHER L. LAUBER, DISTRICT JUDGE  
FIFTH JUDICIAL DISTRICT OF IOWA