


IN THE IOWA DISTRICT COURT FOR POLK COUNTY

ALLYN WAYNE ROBERTS, Plaintiff, vs. CITY OF DES MOINES, Defendant.	Case No. LACL144995 JURY INSTRUCTIONS AND VERDICT FORM Judge William P. Kelly
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Statement from the Iowa Supreme Court

PERSONAL PREJUDICES HAVE NO PLACE IN COURT. YOU MUST SET ASIDE AND DISREGARD ANY PERSONAL FEELINGS OF BIAS OR PREJUDICE YOU MAY HAVE BASED ON SEX, RACE, RELIGION, NATIONAL ORIGIN, AGE OR DISABILITY. YOU MUST DECIDE THIS CASE ONLY UPON THE BASIS OF THE EVIDENCE ADMITTED AND THE LAW AS I EXPLAIN IT TO YOU.

FILED
POLK COUNTY
2021 MAY 11 PM 4:45
CLERK DISTRICT COURT


Judge, 5th Judicial

JURY INSTRUCTION NO. 1

Members of the jury, the instructions I gave at the beginning of the trial and during the trial remain in effect. I now give you some additional instructions.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important. This is true even though some of those I gave you at the beginning of and during trial are not repeated here.

The instructions I am about to give you now, as well as the preliminary instructions given to you at the beginning of the trial, are in writing and will be available to you in the jury room.

In considering these instructions, the order in which they are given is not important.

JURY INSTRUCTION NO. 2

I have not intended to suggest what I think your verdict should be by any of my rulings or comments during the trial.

JURY INSTRUCTION NO. 3

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.

JURY INSTRUCTION NO. 4

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.

JURY INSTRUCTION NO. 5

Certain testimony was read or placed into evidence from a deposition. A deposition is testimony taken under oath before the trial and preserved in writing or by videography. Consider that testimony as if it had been given in court.

INSTRUCTION NO. 6

The fact that one of the parties to this case is a municipal government entity and the other party is a person should not affect your decision. All parties are equal before the law, whether large or small, and entitled to the same fair and conscientious consideration by you as any other person.

JURY INSTRUCTION NO. 7

You have heard evidence claiming Allyn Roberts, or employees of the City of Des Moines made statements before this trial.

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

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

JURY INSTRUCTION NO. 8

You have heard evidence claiming a witness made statements before this trial while under oath which were inconsistent with what the witness said in this trial. If you find these statements were made and were inconsistent, then you may consider them as if they were made at this trial. Decide whether to consider the earlier statements for any purpose and what weight to give them.

JURY INSTRUCTION NO. 9

You have heard evidence claiming witnesses made statements before this trial which were inconsistent with what the witness said in this trial.

Because the witness did not make the earlier statements under oath, you may use them only to help you decide if you believe the witness.

Decide if the earlier statements of witnesses were made and whether they were inconsistent with testimony given. You may disregard all or any part of the testimony if you find the statements were made and they were inconsistent with the testimony given, but you are not required to do so.

However, you should not disregard the testimony if other believable evidence supports it or if for some other reason you believe it.

INSTRUCTION NO. 10

A city or other governmental agency can act only through its officers, employees, or other agents. Any acts or omissions of an officer, employee, or agent of Defendant City of Des Moines are held in the law to be the acts or omissions of the Defendant itself, and these acts or omissions are chargeable to and imputed to the Defendant.

A City is also charged with the knowledge of its employees.

INSTRUCTION NO. 11

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 (e.g. answers to interrogatories, matters which judicial notice was taken, and etc.).

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. 12

You have heard testimony from a person described as an expert. Persons who have become experts in a field because of their education and experience may give their opinion on matters in that field and the reasons for their opinion.

Consider expert testimony just like any other testimony. You may accept it or reject it. You may give it as much weight as you think it deserves, considering the witness' education and experience, the reasons given for the opinion, and all the other evidence in the case.

INSTRUCTION NO. 13

From time to time during the trial, I was called upon to make rulings of law on objections or motions made by the lawyers. It is the duty of the lawyers for each party to object when another party offers testimony or other evidence that the lawyers believe is not properly admissible. You should not show prejudice against a lawyer or the party they represent because the lawyer made objections. You should not infer or conclude from any ruling or other comment I made that I had any opinions on the merits of the case favoring one side or the other. If I sustained an objection that goes unanswered by the witness, you should not draw any inferences or conclusions from the question itself.

INSTRUCTION NO. 14

In considering the evidence, make deductions and reach conclusions according to reason and common sense. Facts may be proved by direct evidence, circumstantial evidence, or both. Direct evidence is evidence from a witness who claims actual knowledge of a fact, such as an eyewitness. Circumstantial evidence is evidence about a chain of facts from which you may draw conclusions and inferences. The law makes no distinction between direct evidence and circumstantial evidence. Give all the evidence the weight and value you think it is entitled to receive.

JURY INSTRUCTION NO. 15

Your verdict must be for plaintiff, Allyn Roberts, and against defendant City of Des Moines if all of the following elements have been proven by the preponderance of the evidence:

First, Plaintiff was disabled. The parties agree that Plaintiff has satisfied this element; and

Second, Defendant demoted and/or terminated Plaintiff's employment; and

Third, Plaintiff could have performed the essential functions of the Arborist position with or without reasonable accommodations at the time Defendant demoted and/or terminated Plaintiff's employment; and

Fourth, Defendant knew of the Plaintiff's disability and Plaintiff's disability was a motivating factor in Defendant's decision to demote and/or terminate Plaintiff. The parties agree that Plaintiff has satisfied this element.

If you find that Plaintiff has not proven all of the above elements with respect to the Defendant, then your verdict on the claim of Disability Discrimination must be for Defendant. If Plaintiff has proven all of these elements, then you shall consider the defenses of undue hardship and direct threat as explained in Instruction Nos. 21 and 22.

JURY INSTRUCTION NO. 16

As used in these instructions, the term “essential functions” of a job are the fundamental job duties of that job plaintiff held. They are those functions or duties which bear more than a marginal relationship to the job. In determining whether a job function is essential, you should consider the following factors:

- The employer’s judgment as to which functions of the job are essential;
- Written job descriptions;
- The amount of time spent on the job performing;
- The function in question;
- Consequences of not requiring the person to perform the function;
- The terms of a collective bargaining agreement;
- The work experience of persons who have held the job;
- The current work experience of persons in similar jobs;
- Whether the reason the position exists is to perform the function;
- Whether there are a limited number of employees available among whom the performance of the function can be distributed; and
- Whether the function is highly specialized and the individual in the position was hired for her expertise or ability to perform the function.

No one factor is necessarily controlling. You should consider all of the evidence in deciding whether a job function is essential. The term “essential functions” means the fundamental job duties of the employment position the plaintiff holds or for which the plaintiff has applied.

JURY INSTRUCTION NO. 17

A reasonable accommodation is a modification to the work environment or to the manner in which an employee's position is usually performed, which would enable a qualified individual with a disability to perform the essential functions of the positions. Examples of "reasonable accommodations" include:

- Rotating employee job duties or roles;
- Job restructuring;
- Assistance from other employees; and
- Acquisition or modifications of equipment or devices.

In determining whether a suggested accommodation of Plaintiff's disability is reasonable, you must consider not only the disabled employee's needs but also the economic realities faced by Defendant. When an accommodation requires Defendant to change the essential nature of the job, assign essential functions to other employees or imposes more than a negligible cost, then the accommodation is unreasonable.

JURY INSTRUCTION NO. 18

Your verdict must be for Allyn Roberts, the Plaintiff, and against the City of Des Moines, the Defendant, on Plaintiff's claim that Defendant failed to provide reasonable accommodations if all of the following elements have been proved by the preponderance of the evidence:

First, Plaintiff's Parkinson's disease constituted a disability. The parties agree Plaintiff has satisfied this element; and

Second, the City of Des Moines knew about Plaintiff's Parkinson's disease; and

Third, Plaintiff could have performed the essential functions of Arborist position at the time Defendant terminated him if Plaintiff had been provided with the accommodation of not doing work above ground or climbing; and

Fourth, providing the accommodation of no above ground work or climbing would have been reasonable; and

Fifth, Defendant failed to provide the accommodation of not requiring above ground work or climbing and failed to provide any other reasonable accommodation.

If you find that Plaintiff has not proven all of the above elements with respect to the Defendant, then your verdict on the claim of Failure to Provide Reasonable Accommodations must be for Defendant. If Plaintiff has proven all of these elements, then you shall consider the defenses of undue hardship and direct threat as explained in Instruction Nos. 21 and 22.

JURY INSTRUCTION NO. 19

An employer may offer an employee a demotion as an accommodation if: (1) there are no reasonable accommodations that would allow the employee to continue working in their current position; and (2) if there are no lateral positions available.

When the above requirements are met, the employee must identify a comparable position for which the employee was qualified and was otherwise available.

JURY INSTRUCTION NO. 20

When an employer becomes aware that an employee is disabled and may need an accommodation, the law requires the employer to initiate an informal, interactive process to determine appropriate reasonable accommodations. All that is required to trigger an employer's duty to engage in the interactive process is knowledge (including circumstantial) that the employee may have a condition that may qualify as a disability and result in some limitation that could require an accommodation.

The employee is expected to participate and cooperate. This process is meant to be flexible and interactive. Both the employer and the employee should communicate directly, listen to each other, and exchange essential information. The employee is likely to have greater information about his or her disability and the employer is likely to be able to identify potential accommodations that the employee would have no way of knowing about.

The interactive process requires the employer to: (1) communicate directly with the employee to explore various possible accommodations; (2) give good faith consideration to any accommodations suggested by the employee; and (3) offer one or more accommodations that are reasonable and effective. Preference should be given to the accommodation suggested by the employee.

If you find that Defendant failed to engage in good faith in the interactive process, you may infer that it would have resulted in Plaintiff being provided with a reasonable accommodation.

JURY INSTRUCTION NO. 21

A Defendant is not required to provide an accommodation if it proves by a preponderance of the evidence that the accommodation would have imposed an undue hardship on the operation of the Defendant's business.

The term "undue hardship" means an action requiring more than minimal expense in providing the accommodation. It takes into account the financial realities of the particular employer and refers to any accommodation that would be unduly costly, extensive, substantial, or disruptive, or that would fundamentally alter the nature or operation of the business.

The factors you may consider in deciding whether an accommodation would cause undue hardship on the operation of an employer's business include:

- The overall size of the employer's program with respect to number of employees, number and type of facilities, and size of budget;
- The type of the employer's operation, including the composition and structure of the employer's workforce; and
- The nature and cost of the accommodation needed.

If you find that Defendant has proved by the preponderance of the evidence that accommodating Plaintiff's restrictions would have caused an undue hardship on the operation of its business, then Defendant has proven the defense of undue hardship and Plaintiff cannot recover damages on his claims of disability discrimination and failure to accommodate. If Defendant has failed to prove this defense, the Plaintiff is entitled to recover damages in some amount.

JURY INSTRUCTION NO. 22

Your verdict must be in favor of Defendant and against Plaintiff if Defendant has proved by a preponderance of the evidence that:

First, Defendant demoted Plaintiff from his position as an Arborist because performing above ground work posed a direct threat to the health or safety to Plaintiff in the workplace; and

Second, such direct threat could not be eliminated by reasonable accommodation.

A direct threat means a significant risk of substantial harm to the health or safety of the person or other persons that cannot be eliminated by reasonable accommodation. The determination that a direct threat exists must be based on an individualized assessment of the plaintiff's present ability to safely perform the essential functions of the job.

In determining whether a person poses a direct threat, you must consider: (1) the duration of the risk; (2) the nature and severity of the potential harm; (3) the likelihood that the potential harm will occur; and (4) the likely time before the potential harm occurs.

If you find that Defendant has proved by the preponderance of the evidence that accommodating Plaintiff's restrictions would have caused a direct threat to Plaintiff's safety, then Defendant has proven the defense of direct threat and Plaintiff cannot recover damages on his claims of disability discrimination and failure to accommodate. If Defendant has failed to prove this defense, the Plaintiff is entitled to recover damages in some amount.

JURY INSTRUCTION NO. 23

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

You may, however, consider the believability of an explanation in determining whether it is a cover-up or pretext for discrimination. In order to succeed on his disability-discrimination claims, Plaintiff must persuade you, by a preponderance of the evidence, that were it not for disability discrimination, his employment would not have been terminated.

JURY INSTRUCTION NO. 24

Your verdict on the claim of Retaliation must be for Plaintiff and against Defendant if you find Plaintiff has proven all of the elements below by a preponderance of the evidence:

First, Plaintiff engaged in “protected activity.” The parties agree Plaintiff has satisfied this element; and

Second, Defendant terminated Plaintiff; and

Third, the “protected activity” was a “motivating factor” in Defendant’s decision to fire him.

If you find that Plaintiff has proven each of the above elements by the preponderance of the evidence, your verdict on the claim of Retaliation must be for Plaintiff and he is entitled to damages in some amount. If you find that Plaintiff has not proven all the above elements by the preponderance of the evidence with respect to the Defendant, then your verdict on the claim of Retaliation must be for Defendant.

JURY INSTRUCTION NO. 25

Allyn Roberts' protected activity was a "motivating factor" if it played a part in the Defendant's decision to fire him. Mr. Roberts' protected activity need not have been the only reason for Defendant's actions.

JURY INSTRUCTION NO. 26

Timing alone is not enough evidence to prove Plaintiff's claim of retaliation; however, a showing that an employer takes adverse against an employee shortly after he has engaged in protected activity may be evidence of retaliation.

JURY INSTRUCTION NO. 27

The employer's stated explanation for refusing to accommodate Allyn Roberts or for firing him must be specifically articulated and non-discriminatory. The reasonableness of the employer's explanation may be considered in determining whether it is a pretext, or a cover-up for disability discrimination and/or retaliation.

Proof that the Defendant's explanation is not true is one form of evidence that you may find proves discrimination and/or retaliation. If you find that Defendant's justification for refusing to provide Mr. Roberts with an accommodation or for firing him is not true, discrimination and/or retaliation may be the most likely alternative explanation. This may be especially so, since Defendant is in the best position to put forth the actual reasons for its decision.

You may find that Mr. Roberts' protected activity was a motivating factor in the Defendant's decision to fire him if it has been proven that the Defendant's stated reason for their decision is not the real reason, but it is a pretext to hide discrimination.

You may find that disability discrimination or retaliation occurred, if you find that the reasons offered by the Defendant for refusing to provide accommodations or firing Mr. Roberts are false.

JURY INSTRUCTION NO. 28

Unlawful discrimination sometimes happens without the decisionmaker having planned, thought out, or even acknowledged to himself or herself that it is taking place. The law acknowledges the effects of society's stereotypes on employers in their decisionmaking, and that biased decisionmaking based upon those stereotypes can violate the law, even if the decisionmaker is unaware of bias in his or her thinking. This is because the law's purpose is to eradicate discrimination in all forms, regardless of the personal character of the individuals making discriminatory decisions.

If you find from all the surrounding circumstances that Defendant treated Allyn Roberts differently than they would have if he had not had a disability or if he had not requested a reasonable accommodation—even if the managers do not acknowledge or realize their own motives—you may find in favor of Mr. Roberts.

JURY INSTRUCTION NO. 29

A public employee like Allyn Roberts cannot file a union grievance in the hopes of resolving claims of Disability Discrimination, Failure to Accommodate, or Retaliation. The Iowa Civil Rights Act (which is the law under which Mr. Roberts has filed this lawsuit) is the only method by which an employee can effectively protest such treatment.

JURY INSTRUCTION NO. 30

If you find in favor of Plaintiff on one or more of his claims, then you must determine an amount that is fair compensation for his damages. You may award compensatory damages only for injuries that Plaintiff proves were caused by the wrongful conduct of Defendant. The damages you award must be fair compensation—no more, no less.

Back Pay: If you find that Plaintiff is entitled to damages, then in determining those damages you must award any past earnings he has lost as a result of Defendant's wrongful conduct. Back pay is the amount of wages and fringe benefits Plaintiff would have earned from the date of harm to the present time, if he had not been subjected to illegal actions.

In deciding back pay, keep in mind that absolute precision in probing what an employee would have earned not for the employer's wrongful conduct is not required. Any uncertainties in computing lost wages should be resolved against the Defendant.

Front Pay: If you find that Plaintiff is entitled to damages, then in determining those damages you must award any future earnings he has lost as a result of Defendant's wrongful conduct. Front pay is the amount of wages and fringe benefits Plaintiff would have earned from the day after your verdict through his retirement, if he had not been subjected to illegal actions.

In deciding front pay, keep in mind that absolute precision in probing what an employee would have earned not for the employer's wrongful conduct is not required. Any uncertainties in computing lost wages should be resolved against the Defendant.

Emotional Distress: You must determine the amount of damages for any emotional distress sustained by Plaintiff. Award Plaintiff the amount that will fairly and justly compensate him for emotional distress damages you find he sustained as a result of the illegal actions. Damages for emotional distress include damages for emotional pain, suffering, mental anguish, humiliation, fear, apprehension, anxiety, inconvenience, loss to reputation, and loss of enjoyment of life. An employee

does not need to introduce evidence of the monetary value of such damages. The amount you assess for these damages cannot be measured by any exact or mathematical standards. You must use your sound judgment based upon an impartial consideration of the evidence. When considering the amount of monetary damages to which a worker may be entitled for emotional distress, you should consider the nature, character, and seriousness of the emotional pain he felt. You must also consider the extent or duration, as any award you make must cover the damages endured by Plaintiff since the wrongdoing to the present time.

You should also award damages for future emotional distress to an employee who has proven, discrimination, failure to accommodate, or retaliation, if his emotional distress and its consequences can reasonably be expected to continue in the future.

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

JURY INSTRUCTION NO. 31

The Defendant contends that Mr. Roberts failed to mitigate his damages, if any. A plaintiff has a duty to mitigate damages by using reasonable care and diligence in seeking and accepting substantially equivalent employment. A plaintiff need not go into another line of work, accept a demotion, or take a demeaning position, but must use reasonable care and diligence in seeking a job substantially equivalent to the one that was lost. A plaintiff's efforts to mitigate need not be successful but must represent an honest effort to find substantially equivalent work.

The burden remains on the employer to show that the plaintiff failed to mitigate his damages. This includes identifying equivalent jobs that were available that Plaintiff failed to take advantage of.

JURY INSTRUCTION NO. 32

During this trial, you have heard references to Plaintiff receiving compensation from IPERS. You should not deduct Plaintiff's receipt of IPERS benefits from your back pay or front pay awards, if any.

JURY INSTRUCTION NO. 33

A Standard Mortality Table indicates the normal life expectancy of people who are the same age as Allyn Roberts is 21.8 more years. The statistics from a Standard Mortality Table are not conclusive. You may use this information, together with all the other evidence, about Mr. Roberts's health, habits, occupation, and lifestyle, when deciding issues of future damages.

JOINT PROPOSED FINAL JURY INSTRUCTION NO. 34

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 recollection or impressions of the evidence as viewed by the person taking them, and may be inaccurate or incomplete.

Upon reaching a verdict, leave the notes in the jury room, and they will be destroyed.

JURY INSTRUCTION NO. 35

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.

If you need to communicate with me during your deliberations, you may send a note to me through the Judicial Assistant, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone—including me—how your votes stand numerically.

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.

JURY INSTRUCTION NO. 36

Occasionally, after a jury retires to the jury room, the members may have questions. I have prepared the instructions after carefully considering this case with the parties and lawyers. I have tried to use language which is generally understandable. Usually questions about instructions can be answered by carefully re-reading them. If however, any of you feel it necessary to ask a question, you must do so in writing and deliver the question to the Judicial Assistant. I cannot communicate with you without first discussing your question and potential answer with the parties and lawyers. This process naturally takes time and deliberation before I can reply. The foreperson shall read my response to the jury. Keep the written question and response and return it to the court with the verdict.

The Judicial Assistant who has been working with me on this case is in the same position as I am. She has taken an oath not to communicate with you except to ask if you have agreed upon a verdict. Please do not put her on the spot by asking her any questions. You should direct your questions to the court and not to the Judicial Assistant.

JURY INSTRUCTION NO. 37**Verdict Forms**

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 9:10 o'clock a.m. excluding meals or recesses outside your jury room, then it is necessary that only seven of you agree upon the answer 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 Judicial Assistant.



Judge, 5th Judicial District

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

ALLYN WAYNE ROBERTS, Plaintiff, vs. CITY OF DES MOINES, Defendant.	Case No. LACL144995 VERDICT FORM
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Question 1: Did Plaintiff Allyn Roberts prove his claim of disability discrimination, as defined in Instruction No. 15, against Defendant? *(Please mark with an "X")*

YES ☒ NO ☐

(Proceed to Question 2.)

Question 2: Did Plaintiff Allyn Roberts prove his claim of failure to accommodate, as defined in Instruction No. 18, against Defendant? *(Please mark with an "X")*

YES ☒ NO ☐

(Proceed to Question 3.)

Question 3: Did Plaintiff Allyn Roberts prove his claim of retaliation, as defined in Instruction No. 24, against Defendant? *(Please mark with an "X")*

YES ✓

NO _____

(If your answers to Questions 1, 2, and 3 are all "no," then do not answer any more questions. If you answered "yes" to Questions 1, 2, or 3 proceed to Question 4)

Question 4: What amount do you order Defendant to pay for Plaintiff Allyn Roberts' in back pay and front pay?

Back Pay

\$ 252,485.50

Front Pay

\$ 350,501.09

(If your answer to Question 1 was "yes," please proceed to Question 5. If your answer to Question 2 was "yes," proceed to Question 6. If your answer to Question 3 was "yes," proceed to Question 7.)

Question 5: What amounts do you order Defendant to pay for Plaintiff Allyn Roberts' emotional distress damages related to his disability discrimination claim?

Emotional Distress in the past

\$ 5,000.00

Emotional Distress in the future

\$ 0

(If your answer to Questions 2 and 3 were both "no," then you do not answer any more questions. If you answered "yes" to Question 2, continue to Question 6. If you answered "yes" Question 3, continue to Question 7.)

Question 6: What amounts do you order Defendant to pay for Plaintiff Allyn Roberts' emotional distress damages related to his failure to accommodate claim?

Emotional Distress in the past \$ 20,000.00

Emotional Distress in the future \$ 0

(If your answer to 3 was "no," then you do not answer any more questions. If you answered "yes" to Question 3, continue to Question 7.)

Question 7: What amounts do you order Defendant to pay for Plaintiff Allyn Roberts' emotional distress damages related to his retaliation claim?

Emotional Distress in the past \$ 5,000.00

Emotional Distress in the future \$ 0

FOREPERSON Nick Hemera

JUROR _____ JUROR _____

JUROR _____ JUROR _____

JUROR _____ JUROR _____

JUROR _____