

IN THE IOWA DISTRICT COURT IN AND FOR SCOTT COUNTY

CAMELLIA POHL,

Plaintiff,

v.

CITY OF DAVENPORT, IOWA,

Defendant.

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Civil No. LACE128300

**PLAINTIFF'S REQUESTED
JURY INSTRUCTIONS &
VERDICT FORM**

COMES NOW the Plaintiff, Camellia Pohl, by and through her attorney, LeGrant Law Firm, P.C., and hereby submits her Requested Jury Instructions & Verdict Form¹ for use at trial in this matter.

Respectfully Submitted,

LEGRANT LAW FIRM, P.C.

By /s/ Andrew L. LeGrant

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ATTORNEY FOR PLAINTIFF

¹ Plaintiff notes that by way of a separate submission/filing, the parties have jointly requested certain jury instructions. The instructions requested herein fall outside of those joint requests and are requested solely by Plaintiff.

Original filed; electronic copy to:

Martha L. Shaff
Betty, Neuman & McMahon, P.L.C.
1900 East 54th Street
Davenport, IA 52807-2708

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on November 19, 2018.

By: ☐ U.S. Mail ☐ Facsimile
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☒ Other: Electronic Filing

Signature /s/Andrew L. LeGrant

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Preliminary Instruction No. __

Statement Of The Case.

Members of the Jury: In this case plaintiff Camellia Pohl claims that her former employer City of Davenport, Iowa wrongfully discharged her by terminating her employment in retaliation for her pursuit of workers' compensation benefits.

Defendant City of Davenport denies Pohl's claim.

Do not consider this summary as proof of any claim. Decide the facts from the evidence and apply the law which I will now give you.

Iowa Model Jury Instruction 100.1 (June 2018)

Final Instruction No. _

Pretext.

You may find that Pohl's pursuit of workers' compensation benefits was a determining factor in the City of Davenport's decision to discharge her if it has been proved that the City of Davenport's stated reason for its decision is not the real reason, but is a pretext to hide retaliation.

Eight Circuit Model Civil Instruction 5.20 (2013); see DeBoom v. Raining Rose, Inc., 772 N.W.2d 1, 10 (Iowa 2009) ("Thus, we hold a pretext instruction 'is required where, as here, a rational finder of fact could reasonably find the defendant's explanation false and could 'infer from the falsity of the explanation that the employer is dissembling to cover up a discriminatory purpose.'")

Final Instruction No. _

Pohl's Damages Claim – Emotional Distress.

Damages for “emotional distress” are the amount of damages that will reasonably compensate Plaintiff for the emotional pain, suffering, inconvenience, mental anguish, and loss of enjoyment of life that were proximately caused by the wrongful conduct of the defendant. The amount, if any, that you assess for damages for emotional distress cannot be measured by an exact or mathematical standard, and Pohl is not required to introduce evidence of the monetary value of such damages. Even so, you must use your sound judgment based upon an impartial consideration of the evidence to determine the amount of such damages. Damages for emotional distress must compensate Pohl for any emotional distress proximately caused by the wrongful conduct that she suffered from the time of the wrongful conduct until the time that you give your verdict.

You may also award emotional distress damages for future emotional distress, but only if you find that Pohl has proved by the greater weight of the evidence that her emotional distress proximately caused by the City of Davenport’s wrongful conduct is reasonably certain to extend into the future.

Based on Jury Instruction No. 8 given in *Raymond v. U.S.A. Healthcare Center*, N.D. Iowa Civil No. 05-3074 (2007, Mark W. Bennett) and on Final Jury Instruction No. 7 given in *Davidson v. Kineth Hospitality Corp. et al*, N.D. Iowa Civil No. 05-3037 (2006, Mark W. Bennett).

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VERDICT FORM

We, the Jury, find the following verdict on the questions submitted to us:

QUESTION NO. 1

Did Camellia Pohl prove her wrongful discharge claim by the preponderance of the evidence?

ANSWER: _____ Yes _____ No

If you answered "Yes" to Question No. 1, proceed to Question No. 2. If you answered "No," proceed to the signature section below and notify the Court's officer that you have reached your verdict.

QUESTION NO. 2

What amount of back pay damages do you award Camellia Pohl?

Back pay: \$ _____

Proceed to Question No. 3.

QUESTION NO. 3

What amount of emotional distress damages do you award Camellia Pohl?

Emotional distress (past): \$ _____

Emotional distress (future): \$ _____

Proceed to the signature section below and notify the Court's officer that you have reached your verdict.

FOREPERSON*

*To be signed only if verdict is unanimous

JUROR**

JUROR**

JUROR**

JUROR**

JUROR**

JUROR**

JUROR**

**To be signed by the jurors agreeing thereto after six (6) hours or more of deliberation.