

IN THE IOWA DISTRICT COURT
IN AND FOR POLK COUNTY

<p>JENNIFER GOULDEN, Plaintiff,</p> <p>vs.</p> <p>DES MOINES PUBLIC LIBRARY and CITY OF DES MOINES, Defendant.</p>	<p>Case No.: LACL158274</p> <p>STATEMENT OF THE CASE, JURY INSTRUCTIONS & VERDICT FORM</p>
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STATEMENT OF THE CASE

MEMBERS OF THE JURY

This is a civil case brought by Plaintiff, Jennifer Goulden, against Defendants, the Des Moines Public Library and the City of Des Moines.

Plaintiff asserts that during her time as a librarian with the Des Moines Public Library, she was subjected to a hostile work environment through the actions of some library patrons. Plaintiff further asserts that Defendants failed to take prompt and appropriate remedial action reasonably calculated to end the alleged harassment by library patrons. Finally, Plaintiff asserts that a joint employer relationship existed between the Des Moines Public Library and the City of Des Moines.

Defendants deny Plaintiff's allegations. Specifically, Defendants assert they took prompt and appropriate remedial action to address patron conduct. Furthermore, the City of Des Moines denies that a joint employer relationship existed with the Des Moines Public Library.

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

FILED
POLK COUNTY, IA.
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CLERK OF DISTRICT COURT

INSTRUCTION NO. 1

Decide the facts from the evidence. Consider the evidence using your observations, common sense, and experience. Try to reconcile any conflicts in the evidence; but if you cannot, 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 witness' testimony.

There are many factors that 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. Whether a witness has made inconsistent statements;
3. The witness' appearance, conduct, age, intelligence, memory, and knowledge of the facts;
4. The witness' interest in the trial, their motive, candor, bias, and prejudice.

INSTRUCTION NO. 2

In considering the evidence, make deductions and reach conclusions according to reason and common sense.

Facts may be proven 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 that show a defendant is liable or not liable.

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.

INSTRUCTION NO. 3

You shall base your verdict only upon the evidence and these instructions. Again, facts may be proven by direct evidence, circumstantial evidence, or a combination of both. Evidence is:

1. Testimony in person or by deposition;
2. Exhibits received by the Court. You may examine the exhibits closely, but be careful not to alter or destroy them;
3. Stipulations, which are agreements between the attorneys;
4. Any other matter admitted.

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 that 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

During the trial, you may have noticed that some of the documents admitted into evidence contain portions that have been "redacted"; that is, blacked out or removed from the document. I have determined that you should not consider these redacted portions of the document as evidence in this case.

You should not be influenced by these redactions, nor should you try to guess or speculate as to what information, if any, might have been redacted from any exhibit.

INSTRUCTION NO. 5

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

INSTRUCTION NO. 6

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

You must consider all of the instructions together. No one instruction includes all of the applicable law. Furthermore, the order in which I give these instructions is not important.

Your duty is also to decide all fact questions.

As you consider the evidence, do not be influenced by any personal likes or dislikes, sympathy, bias, passion, or emotions.

Nothing I have said or done during the trial was intended to give any opinion as to the facts, proof, or what your verdict should be.

INSTRUCTION NO. 7

Whenever a party must prove something, they must do so by a 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. 8

You have heard evidence claiming that Plaintiff and employees or agents of Defendants 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 party making the statement had made it 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 a party's testimony during the trial if other credible evidence supports it or if you believe it for any other reason.

INSTRUCTION NO. 9

You have heard evidence claiming individuals 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 individuals had made it under oath during the trial.

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

INSTRUCTION NO. 10

You have heard testimony from persons described as experts. 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. 11

An expert witness was asked to assume certain facts were true and to give an opinion based on that assumption. This is called a hypothetical question. If any fact assumed in the question has not been proved by the evidence, you should decide if that omission affects the value of the opinion.

INSTRUCTION NO. 12

The fact that Defendants are a government organization and a municipal corporation, respectively, and Plaintiff is an individual should not affect your decision. All persons are equal before the law, and corporations, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

INSTRUCTION NO. 13

An entity can act only through its employees or other agents. Consequently, an employee or agent may bind the entity by the acts, omissions or statements made while employee or agent was acting within the scope of the authority delegated to the employees or agents by the entity, or within the scope of his or her duties as an employee or agent of the entity.

Similarly, an employer is charged with the knowledge of its employees or agents. In other words, if an employee of either Defendant gains knowledge of something while acting within the scope of their job duties, then that defendant has gained that same knowledge.

INSTRUCTION NO. 14

Plaintiff claims Defendants created or maintained a hostile work environment based on her sex. For Plaintiff to recover damages on this claim, she must prove the following:

1. Plaintiff was subjected to offensive actions or statements by library patrons;
2. Such conduct was unwelcome;
3. The conduct was because of Plaintiff's sex;
4. Such conduct was sufficiently severe or pervasive that a reasonable person in Plaintiff's position would find the work environment to be hostile or abusive;
5. At the time such conduct occurred and as a result of such conduct, Plaintiff believed her work environment was hostile or abusive;
6. Defendant(s) knew or should have known of the conduct; and
7. Defendant(s) failed to take prompt and appropriate remedial action reasonably calculated to end the alleged harassment by library patrons.

If Plaintiff has proven all these elements, she may be entitled to damages in some amount.

If, however, Plaintiff failed to prove all these elements, she is not entitled to damages, and, therefore, you must find for Defendant(s).

INSTRUCTION NO. 15

Conduct is unwelcome if the employee did not ask for it or invite it and if she regarded the conduct as undesirable or offensive.

INSTRUCTION NO. 16

The term “because of sex” was used in element no. 3 of Instruction No. 14.

Conduct which creates a hostile work environment may be, but need not be, explicitly sexual in nature. When conduct has sexual overtones, you may, but are not required, to infer that it was “because of sex.”

You may also find harassment was “because of sex” if members of one gender were the primary targets of disadvantageous employment conditions to which members of the other gender were not.

In deciding whether the alleged conduct from library patrons was “because of sex,” you shall consider the purpose and effect of such conduct.

INSTRUCTION NO. 17

As used in element no. 4 of Instruction No. 14, and in Instruction No. 16, conduct creates a hostile work environment when the discriminatory intimidation, ridicule, or insult in the workplace is sufficiently severe or pervasive as to alter the conditions of employment and create an abusive working environment.

Hostile environment claims by their nature involve ongoing and repeated conduct, not isolated events. To determine whether Plaintiff has established severe or pervasive, you should consider:

1. The frequency of the conduct;
2. The severity of the conduct;
3. Whether the conduct was physically threatening or humiliating, as opposed to merely offensive; and
4. Whether the conduct unreasonably interfered with the employee's job performance.

INSTRUCTION NO. 18

As used in element 6 of Instruction No. 14, the defendants "knew or should have known" of the harassment if information about the harassment came to the attention of someone with the defendants who had, or was reasonably believed to have, a duty to pass on the information to someone within the defendants' organization who had the power to take corrective action.

INSTRUCTION NO. 19

As used in element no. 7 of Instruction No. 14, “prompt and appropriate remedial action reasonably calculated to end the harassment” means corrective measures that are:

1. Taken within a reasonable time after the defendants knew or should have known of the harassment;
2. Appropriate under the circumstances to stop the harassment and prevent it from recurring; and
3. Reasonably likely to be effective in ending the harassment.

INSTRUCTION NO. 20

No employee “assumes the risk” of experiencing sexual harassment by accepting a particular job. Employers have a duty to provide employees with nondiscriminatory working conditions regardless of whether the harassers are employees or non-employees.

The law does not require employers to guarantee that harassment will never occur. Employers are only required to take reasonable corrective steps within their lawful authority.

In deciding whether Defendants acted reasonably you shall consider the following:

1. Defendants’ legal authority over library patrons;
2. Defendants’ ability to implement security measures;
3. Defendants’ ability to modify policies or procedures;
4. Defendants’ ability to provide training to staff;
5. The promptness of Defendants’ response after receiving notice;
6. Defendants’ ability to ban or remove patrons;
7. Whether Defendants’ actions were reasonably calculated to end the conduct.

INSTRUCTION NO. 21

Plaintiff claims that the Des Moines Public Library and the City of Des Moines were joint employers. The City of Des Moines denies it had a joint employer relationship with the Des Moines Public Library.

Two entities are joint employers if they share or co-determine essential terms and conditions of employment. To determine whether the City and the Library were joint employers, you must consider the totality of the circumstances. You may consider the following factors:

1. **Interrelation of Operations:** Whether the operations of the two entities were interrelated. This may include whether they shared services, facilities, payroll functions, human resources systems, employment policies, or other administrative functions.
2. **Common Management:** Whether the same individuals or departments exercised management authority or influenced decision-making for both entities.
3. **Centralized Control of Labor Relations:** Whether one entity controlled, influenced, or participated in personnel decisions of the other, such as hiring, discipline, evaluations, leave, benefits, or workplace policies.
4. **Common Ownership or Financial Control:** Whether the entities shared ownership or whether one entity exercised financial control over the other, including control over budgets, funding, or expenditures.

These factors are not exclusive, and no single factor is determinative.

If you find for Plaintiff in Instruction 14, then you must answer the following question on your verdict form:

Did Defendant City of Des Moines have a joint employer relationship with the Des Moines Public Library?

INSTRUCTION NO. 22

If you find for Plaintiff in Instruction **14**, you may award Plaintiff such sum as you find by the preponderance of the evidence will fairly and justly compensate Plaintiff for any damages she sustained as a direct result of Defendants' wrongful conduct. Specifically, you must determine the amount of damages for **Emotional Distress** sustained by Plaintiff.

Award Plaintiff the amount that will fairly and justly compensate her for emotional distress damages you find she sustained because Defendants created or maintained a hostile work environment based on her sex.

Damages for emotional distress include damages for emotional pain, suffering, mental anguish, humiliation, fear, apprehension, anxiety, inconvenience, 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. Consequently, you must use your sound judgment based upon an impartial consideration of the evidence.

When considering the amount of monetary damages to which Plaintiff may be entitled for emotional distress, you should consider the nature, character, and seriousness of the emotional pain she felt. You must also consider the extent or duration, as any award you make must cover the damages endured by Plaintiff to the present time.

You should also award damages for future emotional distress to an employee who has proven her claim only if the emotional distress and its consequences can reasonably be expected to continue in the future.

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

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

Remember, throughout your deliberations, you must not engage in speculation or conjecture, and you must not award damages under this Instruction by way of punishment or through sympathy.

INSTRUCTION NO. 23

If Plaintiff had a mental health condition making her more susceptible to injury than a person in normal health, then Defendants are responsible for all injuries and damages which are experienced by Plaintiff that are caused by Defendants' actions, even though the injuries claimed produce a greater injury than those which might have been experienced by a normal person under the same circumstances.

Plaintiff is not entitled to recover for a mental health condition that existed before working at the Des Moines Public Library or for any injuries or damages which she now has which were not caused by Defendants' decisions.

INSTRUCTION NO. 24

A Standard Mortality Table indicates the normal life expectancy of a person of the Plaintiff's age is 44.5 more years. The statistics from a Standard Mortality Table are not conclusive.

You may use this information, together with all the other evidence, about Plaintiff's health, habits, occupation, and lifestyle, when deciding issues of future damages.

INSTRUCTION NO. 25

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. 26

Exhibits have been admitted into evidence and are to be considered along with all of the other evidence to assist you in reaching your verdict. You are not to tamper with the exhibits or their contents, and each exhibit should be returned to open court, along with your verdict, in the same condition as it was when you received it.

INSTRUCTION NO. 27

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.

INSTRUCTION NO. 28

When you begin your deliberations, you shall select a foreperson. Your foreperson shall see that your deliberations are conducted in an orderly manner, that the issues are fully and freely discussed, and that every juror is given an opportunity to express his or her views.

It is your duty as jurors to consult with one another and reach an agreement, if you can do so without compromising your individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with the other jurors.

During your deliberations, do not hesitate to re-examine your view and change your opinion if convinced it is wrong. However, do not change your opinion as to the weight or effect of the evidence just because it is the opinion of the other jurors or for the mere purpose of returning a verdict.

Remember, you are judges of the facts. Your ultimate duty is to find the truth and do justice.

INSTRUCTION NO. 29

Occasionally, after a jury retires to the jury room, the members have questions. I have prepared these Instructions after carefully considering this case with the attorneys. I have tried to use language that is generally understandable. Usually, questions about the Instructions can be answered by carefully rereading them. If, however, any of you feel it is necessary to ask a question, you must do so in writing and deliver the question to the court attendant.

I cannot communicate with you without first discussing your question and potential answers with the parties and attorneys. This process naturally takes time and deliberation before I can respond. When I respond, it will be in writing, and the foreperson must read the response to the jury. Keep the written question and response and return it to open court with the Verdict.

The court attendant who has been working with me on this case is in the same position as I am. She will take an oath not to communicate with you except to ask if you have reached a verdict. Please do not put her on the spot by asking her questions about the case.

INSTRUCTION No. 30

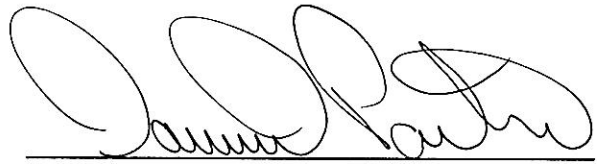
I am giving you one (1) verdict form with special interrogatories. You are required to sign that verdict form.

During the first six (6) hours of deliberations, excluding meals and recesses outside your jury room, your decision must be unanimous. If you all agree, the verdict form and interrogatories must be signed by your foreperson.

If after deliberating for six (6) hours from 12 : 15 p.m, excluding meals or recesses outside your jury room, then it is necessary that only seven (7) of you agree upon the answers to the questions. In that case, the verdict form and interrogatories must be signed by the seven jurors who agree.

When you have agreed upon the verdict and interrogatories and appropriately signed it, please notify the Court Attendant.

Submitted this 6th day of February 2026, at 12 : 15 p.m.



HON. DAVID PORTER
DISTRICT COURT JUDGE
IN AND FOR POLK COUNTY