

FILED
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GARY FITZSIMMONS
DISTRICT CLERK
DALLAS CO., TEXAS
DEPUTY

ARMANDO GONZALES,

Plaintiff

versus

DALLAS COUNTY, TEXAS,

Defendant

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IN THE DISTRICT COURT

DALLAS COUNTY, TEXAS

116th DISTRICT COURT

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

This case is submitted to you by asking questions about the facts, which you must decide from the evidence you have heard in this trial. You are the sole judges of the credibility of the witnesses and the weight to be given their testimony, but in matters of law, you must be governed by the instructions in this charge. In discharging your responsibility on this jury, you will observe all the instructions which have previously been given you. I shall now give you additional instructions which you should carefully and strictly follow during your deliberations.

1. Do not let bias, prejudice or sympathy play any part in your deliberations.

2. In arriving at your answers, consider only the evidence introduced here under oath and such exhibits, if any, as have been introduced for your consideration under the rulings of the court, that is, what you have seen and heard in this courtroom, together with the law as given you by the court. In your deliberations, you will not consider or discuss anything that is not represented by the evidence in this case.

3. Since every answer that is required by the charge is important, no juror should state or

consider that any required answer is not important.

4. You must not decide who you think should win, and then try to answer the questions accordingly. Simply answer the questions, and do not discuss nor concern yourselves with the effect of your answers.

5. You will not decide the answer to a question by lot or by drawing straws, or by any other method of chance. Do not return a quotient verdict. A quotient verdict means that the jurors agree to abide by the result to be reached by adding together each juror's figures and dividing by the number of jurors to get an average. Do not do any trading on your answers; that is, one juror should not agree to answer a certain question one way if others will agree to answer another question another way.

6. Try to come to unanimous agreement on the questions asked. You may, however, render your verdict on a non-unanimous basis; that is, upon the vote of ten or more members of the jury. The same ten or eleven of you must agree upon all of the answers made and to the entire verdict. You will not, therefore, enter into an agreement to be bound by a majority or any other vote of less than ten jurors. If the verdict and all of the answers therein are reached by unanimous agreement, the presiding juror shall sign the verdict for the entire jury. If any juror disagrees as to any answer made by the verdict, those jurors who agree to all findings shall each sign the verdict.

These instructions are given you because your conduct is subject to review the same as that of the witnesses, parties, attorneys and the judge. If it should be found that you have disregarded any of these instructions, it will be jury misconduct and it may require another trial by another jury; then all of our time will have been wasted. The presiding juror or any other who observes a violation of the court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.

* * *

I will now give you one important legal definition:

► "Preponderance of the evidence" means the greater weight and degree of credible evidence admitted in this case and represents the burden of proof that you must follow in answering all of the Questions in this Charge.

When this defined phrase is used within the Charge, you should apply the legal definition conveyed in place of any other meaning these words might have. For all other terms and phrases used in the Charge, you should apply the meaning of the words as they are commonly understood.

* * *

A fact may be established by direct evidence or by circumstantial evidence or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other facts proved.

* * *

This Charge contains five questions. Depending on your answers, you may not be asked to answer all five. Questions One and Three require a "Yes" or "No" answer. A "Yes" answer must be based on a preponderance of the evidence. If you do not find that a preponderance of the evidence supports a "Yes" answer, then answer "No" to that question.

Questions Two and Four requires you to determine the amount of damages incurred, if any. Question Five requires you to determine the amount of reasonable and necessary attorneys' fees. All three of these answers must also be based on the preponderance of evidence. These Questions each have three sub-parts, with each sub-part representing a potential element of damages. Consider each element separately, and consider only the elements listed in the sub-parts. Express your answer in dollars and cents. Do not add any amounts for interest. Do not include damages for one element in any other element. Do not include in your answer any

amount that you find Armando Gonzales could have avoided by the exercise of reasonable care. Do not speculate about what a party's ultimate recovery may or may not be as any recovery will be determined by the Court when it applies the law to your answers at the time of judgment.

QUESTION ONE

Was Armando Gonzales' report regarding Aurelio Castillo made in good faith and a cause of Dallas County terminating Armando Gonzales when it terminated Armando Gonzales?

"Good faith" means that (1) Armando Gonzales believed that the conduct reported was a violation of law and (2) his belief was reasonable in light of his training and experience.

An employer does not discriminate against an employee for reporting a violation of law unless the employer's action would not have occurred had the report not been made.

You are instructed that if Dallas County would have taken the same action against Armando Gonzales without consideration of his report regarding Aurelio Castillo, then Dallas County did not terminate Armando Gonzales for making such a report.

Answer "Yes" or "No":

YES

If you answered "Yes" to Question One, then proceed to Question Two. Otherwise, skip Question Two and proceed to Question Three.

QUESTION TWO

What sum of money, if paid now in cash, would fairly and reasonably compensate Armando Gonzales for his damages, if any, resulting from such termination?

Answer in dollars and cents. Consider each of the elements of damages listed below and none other.

A. Lost income as a result of the ~~period~~ of termination.

Answer: \$ 3,750.00

B. Other economic loss or damage

Answer: \$ 22,500.00

C. Emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life and any future pecuniary losses.

Answer: \$ 105,000.00

Proceed to Question Three.

QUESTION THREE

Was Armando Gonzales' report regarding Aurelio Castillo made in good faith and a cause of Dallas County taking adverse personnel action against him after his reinstatement?

"Good faith" means that (1) Armando Gonzales believed that the conduct reported was a violation of law and (2) his belief was reasonable in light of his training and experience.

An employer does not discriminate against an employee for reporting a violation of law unless the employer's action would not have occurred had the report not been made.

You are instructed that if Dallas County would have taken the same action against Armando Gonzales without consideration of his report regarding Aurelio Castillo, then Dallas County did not take an adverse personnel action with respect to Armando Gonzales for making such a report.

Answer "Yes" or "No":

YES

If you answered "Yes" to Question Three, then proceed to Question Four. If you answered "No" to Question Three, skip Question Four. If you answered "Yes" to Question One, proceed to Question Five; otherwise, end of questions.

QUESTION FOUR

What sum of money, if paid now in cash, would fairly and reasonably compensate Armando Gonzales for his damages, if any, resulting from such adverse personnel action?

Answer in dollars and cent.^s Consider each of the elements of damages listed below and none other.

A. Lost income as a result of the adverse personnel action.

Answer: \$ 5,000.00

B. Other economic loss or damage

Answer: \$ 0

C. Emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life and any future pecuniary losses.

Answer: \$ 27,500.00

Proceed to Question Five.

QUESTION FIVE

What is a reasonable fee for the necessary service of the attorney for Armando Gonzales in this case?

Answer in dollars and cent. Consider each of the elements of damages listed below and none other.

A. For preparation and trial

Answer: \$ 442,296.90

B. For an appeal to the Court of Appeals.

Answer: \$ 25,000.00

C. For an appeal to the Supreme Court of Texas.

Answer: \$ 35,000

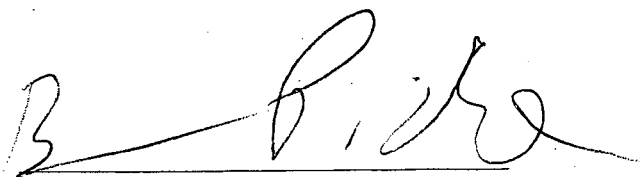
End of Questions.

After you retire to the jury room, you will select your own presiding juror. The first thing the presiding juror will do is to have this complete charge read aloud, and then you will deliberate upon your answers to the questions asked.

It is the duty of the presiding juror:

1. To preside during your deliberations;
2. To see that your deliberations are conducted in an orderly manner and in accordance with the instructions in this charge;
3. To write out and hand to the bailiff any questions concerning the case that you desire to have delivered to the judge;
4. To vote on the issues;
5. To write your answers to the questions in the spaces provided;
6. To certify to your verdict in the space provided for the presiding juror's signature or to obtain the signatures of all the jurors who agree with the verdict if the verdict should be less than unanimous.

After you have retired to consider your verdict, no one has any authority to communicate with you except the bailiff of this court. You should not discuss this case with anyone, not even the other members of the jury, unless all of you are assembled and present in the jury room. Should anyone attempt to talk to you about the case before the verdict is returned, whether at the courthouse, at your home, or elsewhere, please inform the court of this fact. When you have answered all the questions you are required to answer under the instructions of the judge and your presiding juror has placed your answers in the spaces provided and signed the verdict as presiding juror or obtained the signatures, you will advise the bailiff at the door of the jury room that you have reached a verdict, and then you will return into court with your verdict.

A handwritten signature in black ink, appearing to read "B. Priddy", written over a horizontal line.

Hon. Bruce Priddy, Judge Presiding
116th Civil District Court

CERTIFICATE

We, the jury, have answered the above and foregoing questions as herein indicated, and herewith return the same into court as our verdict.

(To be signed by the presiding juror **if unanimous.**)

Presiding Juror

Printed name

(To be signed by those rendering the verdict if the jury is not unanimous.)

Jurors' Signatures

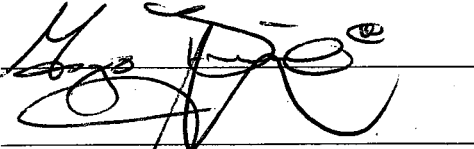
Jurors' Printed Names.

Mary Patrice Gillenwater

Mary Patrice Gillenwater

Angelina Chavez

Angelina Chavez



Gregorio Briones

JUAN VASQUEZ

Joe B. Ellis

Joe B. Ellis

Howard Hayes

Howard Hayes

Faye Z. Larson

FAYE Z LARSON

Blake Williams

Blake Williams

John F. Ratliff

John F. RATLIFF

Angelina Hicks Carter

Angelina Hicks Carter

Ira T Taylor

Ira T Taylor