



Members of the jury, you have seen and heard all of the evidence and the arguments of the attorneys. Now I will instruct you on the law that applies to this case.

You have two duties as a jury. Your first duty is to decide the facts from the evidence in this case. This is your job, and yours alone.

Your second duty is to apply the law that I give you to the facts. You must follow these instructions, even if you disagree with them. Each of the instructions is important, and you must follow all of them.

You must perform your duties fairly and impartially. In deciding your verdict, you must not allow sympathy, bias, prejudice, fear, or public opinion to influence you. The parties to this case and the public expect that you will carefully and impartially consider all of the evidence in the case, follow the law that I give you, and reach a just verdict regardless of the consequences.

Nothing I say now, and nothing I said or did during the trial, is meant to indicate any opinion on my part about what the facts are or about what your verdict should be. It is not my function to determine the facts in this case. That function belongs to you.

You should consider and decide this case as an action between persons of equal standing in the community, and holding the same or similar stations in life. Each party is entitled to the same fair consideration. A corporation is entitled to the same fair consideration as a private individual. All persons and corporations, big or small, stand equal before the law and are to be dealt with as equals in a court of justice.

As I stated, it is your duty to determine the facts. In determining the facts, you must consider only the evidence that I have admitted in the case. The evidence consists of the testimony of the witnesses and the exhibits admitted in evidence.

Certain things are not evidence. I will list them for you.

First, testimony and exhibits that I struck from the record, or that I told you to disregard, are not evidence and must not be considered.

Second, anything that you may have seen or heard outside the courtroom is not evidence and must be entirely disregarded.

Third, questions and objections by the lawyers are not evidence. Attorneys have a duty to object when they believe a question is improper. You should not be influenced by any objection or by my ruling on it.

Fourth, the lawyers' statements and arguments to you are not evidence. The purpose of these statements and arguments is to discuss the issues and the evidence. If the evidence as you remember it is different from what they lawyers said, your memory is what counts.

Some of you may have heard the phrases “direct evidence” and “circumstantial evidence.” Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is indirect evidence, in other words it is proof of one or more facts that point to the existence or non-existence of another fact that is at issue. You are to consider both direct and circumstantial evidence. The law allows you to give equal weight to both types of evidence, but it is up to you to decide how much weight to give to any evidence in the case.

You are to consider all of the evidence in determining your verdict. However, that does not mean that you must accept all of the evidence as true or accurate.

You should use common sense in considering the evidence, and you should consider the evidence in light of your own observations in life.

In our lives, we sometimes look at one fact and conclude from that fact that another fact exists. In law we call this an “inference.” You are allowed to make reasonable inferences, but any inferences that you make must be reasonable and must be based on the evidence in the case.

In determining the facts in this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness says, or part of it, or none of it. You will also have to decide what weight, if any, to give to the testimony of each witness.

In considering the testimony of any witness, you may take into account:

- the opportunity and ability of the witness to see or hear or know the things that the witness testified about;
- the witness's memory;
- the witness's intelligence;
- any interest the witness may have in the outcome of the case, and any bias or prejudice the witness may have;
- the witness's manner while testifying;
- the reasonableness of the witness's testimony in light of all the evidence in the case; and
- any other factors that bear on believability.

The weight of the evidence as to a particular fact does not necessarily depend on the number of witnesses who testify. You may find the testimony of a small number of witnesses to be more persuasive than that of a greater number.

A witness may be discredited or “impeached” by contradictory evidence, by, among other things, a showing that he or she testified falsely concerning a material matter, or by evidence that at some other time the witness has said or done something that is inconsistent with the witness’s testimony.

If you believe that any witness has been impeached, then you must determine whether to believe the witness’s testimony in whole, in part, or not at all, and how much weight to give to that testimony.

The law does not require any party to call as witnesses all persons who may have been present at any time or place involved in the case, or who may appear to have some knowledge of the matters in issue at this trial. Nor does the law require any party to produce as exhibits all papers and things mentioned in the evidence in the case.

You have heard witnesses give opinions about matters requiring special knowledge or skill. You should judge this testimony in the same way that you judge the testimony of any other witness. The fact that such a person has given an opinion does not mean that you are required to accept it. Give the testimony whatever weight you think it deserves, considering the reasons given for the opinion, the witness's qualifications, and all of the other evidence in the case.

In this lawsuit, the plaintiff, Jasmina Peric, has made claims of gender-based harassment against Ford, based on the actions of coworkers and supervisors. Ford denies these claims.

The law treats actions by co-workers differently than it treats actions by supervisors. For this reason, you will see separate instructions describing how you must evaluate each of Peric's claims.

As you may recall, I previously instructed you that Anna Gvozdencovic's claims are no longer part of this lawsuit. Further, you should not speculate about the reasons Ms. Gvozdencovic's claims are no longer part of the case, and you may not let that influence your determination of Ms. Peric's claims.

You have heard testimony from Jasmina Peric that she filed this lawsuit after receiving a Notice of Right to Sue from the Equal Employment Opportunity Commission (EEOC). That Notice is a prerequisite to filing a lawsuit like this one, and it does not mean that the EEOC has approved, sanctioned, or rendered an opinion on the merits of the case. The issuance of the Notice should not enter into your deliberations in any way.

In the following instructions, I will use the term “preponderance of the evidence.” When I use the term “preponderance of the evidence,” I mean evidence that persuades you that a particular proposition is more likely true than not true.

In deciding whether any proposition has been proven by a preponderance of the evidence, you may, unless otherwise instructed, consider the testimony of all the witnesses, regardless of who may have called them, and all the exhibits received in evidence, regardless of who may have produced them.

### **First claim - hostile work environment - co-workers**

In her first claim against Ford, Peric contends that she was subjected to a hostile work environment due to her sex, based on the conduct of her co-workers. To succeed in this claim, Peric must prove seven propositions by a preponderance of the evidence. In determining the first five propositions, you are to consider *both* the conduct of Peric's co-workers and that of her supervisors. In determining the sixth and seventh propositions, you are to consider *only* the conduct of Peric's co-workers.

First, Peric was subjected to hostile words and actions, differential treatment, sexual advances, sexually-oriented verbal and/or physical conduct, and/or sexually-oriented graffiti and pictures;

Second, Peric was subjected to this conduct because she is a woman;

Third, the conduct was unwelcome;

Fourth, at the time the conduct occurred, Peric believed that it made her work environment hostile or abusive;

Fifth, the conduct was sufficiently severe or pervasive that a reasonable person in Peric's position would have found her work environment to be hostile or abusive;

Sixth, Ford knew or should have known about the conduct; and

Seventh, Ford did not take reasonable steps to correct the situation.

If you find from your consideration of all the evidence that Peric has proved each of these propositions, then you should find in Peric's favor on this claim.

If, on the other hand, you find from your consideration of all the evidence that Peric has failed to prove any one of these propositions, then you should find in Ford's favor on this claim.

## **Second claim - hostile work environment - supervisors**

In her second claim against Ford, Peric contends that she was subjected to a hostile work environment due to her sex, based on the conduct of her supervisors. To succeed in this claim, Peric must prove six propositions by a preponderance of the evidence. In determining each of these propositions, you are to consider *only* the conduct of Peric's supervisors.

First, Peric was subjected to hostile words and actions, sexual advances, sexually-oriented verbal and/or physical conduct, and/or sexually-oriented graffiti and pictures;

Second, Peric was subjected to this conduct because she is a woman;

Third, the conduct was unwelcome;

Fourth, at the time the conduct occurred, Peric believed that it made her work environment hostile or abusive;

Fifth, the conduct was sufficiently severe or pervasive that a reasonable person in Peric's position would have found her work environment to be hostile or abusive; and

Sixth, the conduct was done by a supervisor, that is, a person who had the power to affect the conditions of Peric's employment, such as by disciplining, transferring, promoting, demoting, hiring, or firing Peric. What matters is the particular person's authority and power over Peric, not his or her title.

If you find from your consideration of all the evidence that Peric has failed to prove any one of these propositions, then you should find in Ford's favor on this claim.

If, on the other hand, you find from your consideration of all the evidence that Peric has proved each of these propositions, then you should find in Peric's favor on this claim, unless you find that Ford has proved the following two things by a preponderance of the evidence, in which case you should find in Ford's favor on this claim:

First, that Ford exercised reasonable care to prevent and correct any gender-based harassing or abusive conduct in the workplace; and

Second, that Peric did not take advantage of opportunities provided by Ford to prevent or correct harassment or to otherwise avoid harm, or, if Peric did take advantage of preventive or corrective opportunities, Ford's responsive actions were timely and reasonably likely to prevent similar conduct from recurring.

In determining whether Ford exercised reasonable care to prevent and correct hostile or abusive conduct, you may consider whether Ford established anti-harassment policies and complaint procedures, whether there was a need for such policies and procedures, and whether such policies and procedures, if any, were suitable in both policy and practice to the employment circumstances.

In determining whether Peric took advantage of preventive or corrective opportunities, you may consider whether she failed to use any complaint procedures provided by Ford, including by the collective bargaining agreement, if such complaint procedures existed, and if so, whether the failure was unreasonable under the circumstances.

The instruction on this page applies to both of Peric's claims.

To determine whether a reasonable person would have found Peric's work environment hostile or abusive, you must look at all the circumstances, including the frequency of the conduct; its severity; its duration; whether it was physically threatening or humiliating; and whether it unreasonably interfered with the plaintiff's work performance. No single factor is more important than any other factor.

Conduct that amounts only to ordinary socializing in the workplace, such as occasional horseplay, sexual flirtation, sporadic or occasional use of abusive language, occasional gender related jokes, and occasional teasing, does not constitute an abusive or hostile environment under the law. Only conduct that amounts to a significant change in the conditions of a person's employment constitutes an abusive or hostile environment.

**Separate question regarding first two claims**

The instruction on this page applies to both of Peric's claims.

If you find in favor of Peric on either or both of her claims, you must also decide whether Ford "constructively discharged" her from her employment. Constructive discharge occurs when discriminatory working conditions become so intolerable that a reasonable person in Peric's position would be forced to resign. In the ordinary case, an employee is expected to remain employed while seeking redress.

## **Damages**

If you find in Peric's favor on either one of her claims, then you must determine what amount of damages, if any, she is entitled to recover from Ford.

If you decide in Ford's favor on both of Peric's claims, then you will have no occasion to consider the question of damages.

You should not interpret the fact that I am giving you instructions about damages as any indication that I believe that Peric should, nor should not, win this case. It is up to you to decide that question. I am instructing you on damages only so that you will have guidance in the event that you find in Peric's favor on one or both of her claims.

Peric has the burden of proving her damages to a reasonable degree of certainty. In addressing this issue, you should be guided by reason and common sense. You may not award damages based on sympathy, speculation or guesswork. On the other hand, the law does not require Peric to prove the amount of her losses with mathematical precision, but only with as much definiteness and accuracy as circumstances permit.

The law permits you to award Peric compensatory damages in an amount that will reasonably compensate her for any humiliation, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and/or stress, as well as any decreased compensation and medical expenses, that she experienced as a result of a hostile work environment.

You may award damages only for injuries that Peric proves by a preponderance of the evidence were the direct result of gender-based harassment that she experienced at Ford.

The damages you award must be fair compensation, no more and no less. No evidence of the monetary value of such intangible things as humiliation, pain and suffering, and the like has been or needs to be introduced into evidence. There is no exact standard for fixing the compensation to be awarded for these elements of damages. Any award you make should be fair in light of the evidence presented at trial.

Compensatory damages are not allowed as a punishment and cannot be imposed or increased to penalize Ford.

Upon retiring to the jury room, select one of your number as your foreperson. The foreperson will preside over your deliberations and will be your representative here in court.

A form of verdict has been prepared for you.

[Read the verdict form.]

Take this form to the jury room, and when you have reached unanimous agreement on the verdict, your foreperson will fill in and date the appropriate form, and each of you will sign it.

I do not anticipate that you will need to communicate with me. If you do, however, the only proper way is in writing, signed by the foreperson, or if he or she is unwilling to do so, by some other juror, and given to the court security officer.

If any communication is made, it should not indicate your numerical division, that is, do not inform the court or even hint at how many among you were or are in favor or against reaching any particular verdict.

The verdict must represent the considered judgment of each juror. Your verdict must be unanimous.

You should make every reasonable effort to reach a verdict. In doing so, you should consult with one another, express your own views, and listen to the views of your fellow jurors. Discuss your differences with an open mind. Do not hesitate to re-examine your own views and change your opinion if you come to believe it is wrong. But you should not surrender your honest beliefs about the weight or effect of evidence solely because of the opinions of your fellow jurors or solely for the purpose of returning a unanimous verdict.

All of you should give fair consideration to all the evidence and deliberate with the goal of reaching a verdict which is consistent with the individual judgment of each juror.

You are impartial judges of the facts. Your sole interest is to determine the truth from the evidence in the case.

**VERDICT FORM**

**Claim 1 - hostile work environment - co-workers**

1. We, the jury, find as follows on plaintiff Jasmina Peric’s first claim against Ford Motor Company:

\_\_\_\_\_ For Jasmina Peric

\_\_\_\_\_ For Ford Motor Company

If you answer “for Jasmina Peric,” proceed to answer question 2. If you answer “for Ford Motor Company,” skip question 2, and go to the next page.

2. Has Peric proved by a preponderance of the evidence that she was “constructively discharged” by Ford?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**Claim 2 - hostile work environment - supervisors**

3. We, the jury, find as follows on plaintiff Jasmina Peric’s second claim against Ford

Motor Company:

\_\_\_\_\_ For Jasmina Peric

\_\_\_\_\_ For Ford Motor Company

If you answer “for Jasmina Peric,” proceed to answer question 4. If you answer “for Ford Motor Company,” skip question 4.

4. Has Peric proved by a preponderance of the evidence that she was “constructively discharged” by Ford?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

**Damages**

(To be answered *only* if you found for Jasmina Peric on one or both of her claims)

5. We, the jury, find damages as follows:

\$ \_\_\_\_\_ Emotional pain, suffering, inconvenience, mental anguish,  
loss of enjoyment of life, and stress, if any

\$ \_\_\_\_\_ Decreased compensation, if any

\$ \_\_\_\_\_ Medical expenses, if any

\$ \_\_\_\_\_ TOTAL

Foreperson


Date: \_\_\_\_\_