**UNITED STATES DISTRICT COURT**

**FOR THE NORTHERN DISTRICT OF ILLINOIS**

**EASTERN DIVISION**

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| SHEIRYS BREDEMEIER,  Plaintiff,  v.  DOUGLAS A. COLLINS, Secretary of the United States Department of Veterans Affairs,  Defendant | No. 21-cv-06216  Judge Jeremy C. Daniel |

PRELIMINARY INSTRUCTIONS

Ladies and Gentlemen:

You are now the jury in this case, and I want to take a few minutes to tell you some things about your duties as jurors and to give you some instructions. At the end of the trial, I will give you more detailed instructions. Those instructions will control your deliberations.

One of my duties is to decide all questions of law and procedure. From time to time during the trial and at the end of the trial, I will instruct you on the rules of law that you must follow in making your decision. You should not take anything I may say or do during the trial as indicating what I think of the evidence or what your verdict should be. After I finish with these preliminary instructions, we’ll start the trial with opening statements.

Elevators. If you see the lawyers or the parties in the courthouse, in the hallways, or downstairs on the second floor where there’s a cafeteria, they won’t speak to you. They’re not being rude. They’re just following my instructions not to have any contact with you. Starting now, you must use the north elevators, which are the set closest to this courtroom. When you exit the jury room, turn right. Everyone else involved in this case will use the south elevators. They will turn left when they exit the courtroom.

Order of Trial. The trial will proceed in the following manner. First, the plaintiffs’ attorney will make an opening statement. Next, the defendants’ attorney will make an opening statement. An opening statement is not evidence but is simply a summary of what the attorney expects the evidence to be. After the opening statements, the plaintiffs will call witnesses and present evidence. Then, the defendants will have an opportunity to call witnesses and present evidence. After the parties’ main cases are completed, the plaintiffs may be permitted to present rebuttal evidence. To save time, it’s possible that when a witness is testifying, both sides will present the evidence that they want to present through the witness so that witness doesn’t have to come back at a different stage of the case. After the evidence has been presented, the attorneys will make closing arguments and I will instruct you on the law that applies to the case. After that, you will go to the jury room to deliberate on your verdict.

Statement of the Case. Sheirys Bredemeier has brought this lawsuit under a federal law called the Rehabilitation Act. Under the Rehabilitation Act, it is illegal for an employer to discriminate against a person with a disability if that person is qualified to do the essential functions of her job and the employer is aware of her limitations.

In this case, Ms. Bredemeier claims that the VA discriminated against her by not accommodating her disability. The VA denies that it refused to give Ms. Bredemeier a reasonable accommodation.

Burden of Proof – Preponderance. When I say a particular party must prove something by a “preponderance of the evidence,” or when I use the expression “if you find,” or “if you decide,” this is what I mean: When you have considered all the evidence in the case, you must be persuaded that it is more probably true than not true.

Evidence in the Case. The evidence consists of the testimony of the witnesses, the exhibits admitted in evidence, and any facts that I may instruct you to find or the parties may agree or stipulate to. A stipulation is simply an agreement between both sides that certain facts are true. During the course of the trial, you may be shown documents that contain redactions, meaning some words in those documents are hidden from view. Documents are redacted for a number of reasons that have nothing to do with the merits of the case. You should not draw any inferences or conclusions from the fact that a document contains redactions.

Credibility of Witnesses. You will have to decide whether the testimony of each of the witnesses is truthful and accurate, in part, in whole, or not at all. You also must decide what weight, if any, you give to the testimony of each witness.

Inferences. You should use common sense in weighing the evidence and consider the evidence in light of your own observations in life. In our lives, we often look at one fact and conclude from it that another fact exists. In law, we call this an “inference.” A jury is allowed to make reasonable inferences. Any inferences you make must be reasonable and must be based on the evidence in the case.

Direct and Circumstantial Evidence. You may have heard the phrases “direct evidence” and “circumstantial evidence.” Direct evidence is proof that does not require an inference, such as the testimony of someone who claims to have personal knowledge of a fact. Circumstantial evidence is proof of a fact, or a series of facts, that tends to show that some other fact is true. As an example, direct evidence that it is raining is testimony from a witness who says, “I was outside a minute ago and I saw it raining.” Circumstantial evidence that it is raining is the observation of someone entering a room carrying a wet umbrella. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. When the time comes to deliberate on your verdict, you should consider all the evidence in the case, including the circumstantial evidence.

What is Not Evidence. The following things are not evidence, and you must not consider them as evidence in deciding facts of this case: the attorneys’ opening statements, closing arguments, questions, and objections of the attorneys; any testimony that I instruct you to disregard; and anything you may see or hear when the court is not in session even if what you see or hear is done or said by one of the parties or by one of the witnesses. An opening statement is not evidence. It is simply a summary of what the attorney expects the evidence to be.

Rulings on Objections. From time to time during the trial I may be called upon to make rulings of law on objections or motions made by the lawyers. You should not infer or conclude from any ruling or other comment I may make that I have any opinions about how you should decide this case. And if I should sustain an objection to a question that goes unanswered by a witness, you should not guess or speculate what the answer might have been, and you should not draw any inferences or conclusions form the question itself.

Bench Conferences. At times during the trial, it may be necessary for me to talk with the lawyers here at the bench out of your hearing, or by calling a recess. We meet because often during a trial something comes up that doesn’t involve the jury. We will, of course, do what we can to keep the number and length of these conferences to a minimum, but you should remember the importance of the matter you are here to determine and should be patient even though the case may seem to go slowly.

Note-Taking – Allowed. Any notes you take during this trial are only aids to your memory. The notes are not evidence. If you do not take notes, you should rely on your independent memory of the evidence and not be unduly influenced by the notes of other jurors. Notes are not entitled to any greater weight than the memories or impressions of each juror about the testimony. When you leave the courthouse during the trial, your notes should be left in the courtroom. When you leave at night, your notes will be secured and not read by anyone. At the end of the trial, your notes will be destroyed, and no one will be allowed to read the notes before they are destroyed.

Jury Conduct. All jurors must follow certain rules of conduct, and you must follow them, too.

First, you must not discuss this case with anyone, including your fellow jurors, members of your family, people involved in the trial, or anyone else. You must not let others discuss the case with you. If anyone tries to talk to you about the case, please let me know about it immediately. You may tell your family and your employer that you are serving jury duty, but you must not tell them anything else about the case.

Second, you must not read any news stories or articles or listen to any radio or television reports about the case or about anyone who has anything to do with it.

Third, you must not do any research, such as consulting dictionaries, searching the Internet or using other references materials, and do not make any investigation about the case on your own. I am referring to every way that people communicate or obtain information. This includes, for example, face-to-face communications; looking things up; doing research; reading, watching, or listening to reports in the news media; and any communication using any electronic device such as a phone, computer, tablet, internet, text messaging, social media, or any other form of communication. There are a few reasons for these rules. It would not be fair to the parties in this case for you to consider outside information or communicate information about the case to others. Outside information may be incorrect or misleading.

Fourth, if you need to communicate with me, you must give a signed note to the courtroom deputy or law clerk to give to me.

Fifth, you must not make up your mind about what the verdict should be until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence. You are obligated to keep an open mind until then.

Description of a Trial Day. We generally will begin the trial day at 10:00 am. You will be required to be in the jury room at 9:30 am. We will take a lunch break for about one hour each day beginning sometime around noon, meaning you can expect to resume trial around 1:00 pm. We will take an afternoon break of 20 to 30 minutes, around 2:30 or 2:45 pm. We will resume trial following the afternoon break. We will conclude the trial day no later than 4:30 pm. The only exception will be when the case ends and your deliberations are ongoing; then, you have the option of deliberating each day until 6:00 pm.

The jury room will be your home base during the trial. You will always assemble in the jury room at the beginning of the day as well as at the end of your lunch break. Your afternoon break and any recesses will be in the jury room. You will find restrooms for your personal use in the jury room. Breakfast is provided to you each morning. Hopefully, an afternoon snack will also be provided. We will try to make your service as pleasant and as comfortable as possible. If you have any problems, please let my courtroom deputy know about them. She will then inform me, and we will see if we can resolve the matter.

We are now ready to hear opening statements.