Ortega
v
Chicago Bd. of Ed.

JURY INSTRUCTION NUMBER 1

Members of the jury, you will see and hear all the evidence and arguments of the attorneys. But first I will instruct you on the law.

You have two duties as a jury. Your first duty is to decide the facts from the evidence in the 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.

Perform these duties fairly and impartially. Do not allow sympathy, prejudice, fear, or public opinion to influence you.

Nothing I say now, and nothing I will say or do during the trial, is meant to indicate any opinion on my part about what the facts are or about what your verdict should be.

The instructions you will receive at the end of the case will be the ones you will use to guide your deliberations. I am giving you these instructions now so you will have some guidance as to how to consider the evidence you hear, and also what issues you need to decide. The final instructions may change somewhat from these, but not in any significant way unless I note it for you.

JURY INSTRUCTION NUMBER 2

During this trial, I may ask a witness a question myself. Do not assume that because I ask questions I hold any opinion on the matters I ask about, or on what the outcome of the case should be.

JURY INSTRUCTION NUMBER 3

I have a duty to caution or warn an attorney who does something that I believe is not in keeping with the rules of evidence or procedure. You should not draw any inference against the side whom I may caution or warn during the trial.

JURY INSTRUCTION NUMBER 4

It is proper for a lawyer to meet with any witness in preparation for trial.

JURY INSTRUCTION NUMBER 5

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 recollection of the evidence and not be unduly influenced by the notes of other jurors. Notes are not entitled to any greater weight than the recollections or impressions of each juror about the testimony.

JURY INSTRUCTION NUMBER 6

Certain diagrams may be shown to you. Those diagrams are used for convenience and to help explain the facts of the case. They are not themselves evidence or proof of any facts.

JURY INSTRUCTION NUMBER 7

The evidence consists of the testimony of the witnesses, and the exhibits admitted in evidence, and stipulation.

A stipulation is an agreement between both sides that certain facts are true.

JURY INSTRUCTION NUMBER 8

Certain things are not to be considered as evidence. I will list them for you:

First, if I tell you to disregard any testimony or exhibits or strike any testimony or exhibits from the record, such testimony or exhibits are not evidence and must not be considered.

Second, anything that you may see or hear outside the courtroom is not evidence and must be entirely disregarded.

Third, questions and objections or comments by the lawyers are not evidence. Lawyers have a duty to object when they believe a question is improper. You should not be influenced by any objection, and you should not infer from my rulings that I have any view as to how you should decide the case.

Fourth, the lawyers' opening statements and closing arguments to you are not evidence. Their purpose is to discuss the issues and the evidence. If the evidence as you remember it differs from what the lawyers said, your memory is what counts.

JURY INSTRUCTION NUMBER 9

In determining whether any fact has been proved, you should consider all of the evidence bearing on the question regardless of who introduced it.

JURY INSTRUCTION NUMBER 10

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 inference you make must be reasonable and must be based on the evidence in the case.

JURY INSTRUCTION NUMBER 11

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. You should decide how much weight to give to any evidence. In reaching your verdict, you should consider all the evidence in the case, including the circumstantial evidence.

JURY INSTRUCTION NUMBER 12

You must 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.

In evaluating the testimony of any witness, including any party to the case, you may consider, among other things:

-The ability and opportunity the witness had to see, hear, or know the things that the witness testified about;

- the witness's memory;

- any interest, bias, or prejudice the witness may have;

- the witness's intelligence;

- the manner of the witness while testifying;

- and the reasonableness of the witness's testimony in light of all the evidence in the case.

JURY INSTRUCTION NUMBER 13

A deposition is the sworn testimony of a witness taken before trial. The witness is placed under oath to tell the truth and lawyers for each party may ask questions. The questions and answers are recorded.

The video deposition of Tinesha Woods-Wells, which was taken on September 2, 2015, may be presented to you.

Deposition testimony is entitled to the same consideration and is to be judged, insofar as possible, in the same way as if the witness had been present to testify.

Do not place any significance on the behavior or tone of voice of any person reading the questions or answers.

JURY INSTRUCTION NUMBER 14

You may consider statements given by any Party or Witness under oath before trial, if such evidence is admitted, as evidence of the truth of what he or she said in the earlier statements, as well as in deciding what weight to give his or her testimony.

With respect to other witnesses, the law is different. If you decide that, before the trial, one of these witnesses made a statement not under oath or acted in a manner that is inconsistent with his testimony here in court, you may consider the earlier statement or conduct only in deciding whether his testimony here in court was true and what weight to give to his testimony here in court.

In considering a prior inconsistent statement or conduct, you should consider whether it was simply an innocent error or an intentional falsehood and whether it concerns an important fact or an unimportant detail.

JURY INSTRUCTION NUMBER 15

You may find the testimony of one witness or a few witnesses more persuasive than the testimony of a larger number. You need not accept the testimony of the larger number of witnesses.

JURY INSTRUCTION NUMBER 16

The law does not require any party to call as a witness every person who might have knowledge of the facts related to this trial. Similarly, the law does not require any party to present as exhibits all papers and things mentioned during this trial.

JURY INSTRUCTION NUMBER 17

In this case the defendant is a municipal corporation. All parties are equal before the law. A corporation is entitled to the same fair consideration that you would give any individual person.

JURY INSTRUCTION NUMBER 18

The Defendant is a corporation and can act only through its officers and employees. Any act or omission of an officer or employee is the action or omission of the Defendant corporation.

JURY INSTRUCTION NUMBER 19

Plaintiff has brought this lawsuit under a federal law called the Americans with Disabilities Act, which is often referred to by its initials, "ADA." Under the ADA, 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 his job and the employer is aware of his limitations.

In this case, Plaintiff claims that Defendant discriminated against her by displacing her from her position because she had a disability. Defendant denies that it discriminated against Plaintiff and says that Plaintiff was displaced from her position because she did not have the required credentials to remain in her teaching position at Hedges.

As you listen to these instructions, please keep in mind that many of the terms I will use have a special meaning under the law. So please remember to consider the specific definitions I give you, rather than using your own opinion as to what these terms mean.

JURY INSTRUCTION NUMBER 20

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.

JURY INSTRUCTION NUMBER 21

To succeed in this case, Plaintiff must prove four things by a preponderance of the evidence:

1. Plaintiff had a disability.

2. Plaintiff was qualified to perform the job;

3. Defendant displaced Plaintiff from her teaching position at Hedges Elementary School;

4. Defendant would not have displaced Plaintiff from her teaching position at Hedges Elementary School if Plaintiff had not had a disability, but everything else had been the same.

If you find that Plaintiff has proved each of these things by a preponderance of the evidence, you should turn to the issue of Plaintiff's damages. If you find that Plaintiff has failed to prove any of these things by a preponderance of the evidence, your verdict should be for Defendant.

JURY INSTRUCTION NUMBER 22

The parties have stipulated, or agreed, that Plaintiff has a permanent disability. You must now treat this fact as having been proved for the purpose of this case.

JURY INSTRUCTION NUMBER 23

In deciding Plaintiff's claim, you should not concern yourselves with whether Defendant's actions were wise, reasonable, or fair. Rather, your concern is only whether Plaintiff has proved that Defendant would not have displaced Plaintiff from her teaching position at Hedges Elementary School if Plaintiff had not had a disability, but everything else had been the same.

JURY INSTRUCTION NUMBER 24

If you find that Plaintiff has proved her claim against Defendant, then you must determine what amount of damages, if any, Plaintiff is entitled to recover. Plaintiff must prove her damages by a preponderance of the evidence.

If you find that Plaintiff has failed to prove her claim, then you will not consider the question of damages.

JURY INSTRUCTION NUMBER 25

You may award compensatory damages only for injuries that Plaintiff has proved by a preponderance of the evidence were caused by Defendant's wrongful conduct.

Your award must be based on evidence and not speculation or guesswork. This does not mean, however, that compensatory damages are restricted to the actual loss of money; they include both the physical and mental aspects of injury, even if they are not easy to measure.

In calculating damages, you should not consider the issue of lost wages and benefits. You should consider the following types of compensatory damages, and no others: The emotional pain and suffering that Plaintiff has experienced.

JURY INSTRUCTION NUMBER 26

If you find that Plaintiff has proven her claim of discrimination by a preponderance of the evidence, you may award her as damages any lost wages and benefits she would have received from the Defendant if she had not been displaced from her position at Hedges Elementary school minus the earnings and benefits that plaintiff received from other employment during that time that she would not otherwise have received. It is Plaintiff's burden to prove that she lost wages and benefits and their amount. If she fails to do so for any periods of time for which she seeks damages, then you may not award damages for that time period.