

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

KATHLEEN S. FLAHERTY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 00 C 0565
)	
)	Magistrate Judge Morton Denlow
OFFICE OF THE CIRCUIT COURT)	
CLERK OF COOK COUNTY, a)	
municipal corporation,)	
)	
Defendant.)	

JURY INSTRUCTIONS

INTRODUCTION TO THE FINAL CHARGE

Members of the Jury:

Now that you have heard all of the evidence to be received in this trial and each of the arguments of counsel it becomes my duty to give you the Court's final instructions as to the law that is applicable to this case and which will guide you in your decisions.

All of the instructions of law given to you by the Court-those given to you at the beginning of the trial, those given to you during the trial, if any, and these final instructions-must guide and govern your deliberations.

It is your duty as jurors to follow the law as stated in all of the instructions of the Court and to apply these rules of law to the facts as you find them from the evidence received during the trial.

Counsel have quite properly referred to some of the applicable rules of law in their closing arguments to you. If, however, any difference appears to you between the law as stated by counsel and that as stated by the Court in these instructions, you, of course, are to be governed by the instructions given to you by the Court.

You are not to be concerned with the wisdom of any rule of law stated by the Court. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your sworn duty to base any part of your verdict upon any other view or opinion of the law than that given in these instructions of the Court just as it would be a violation of your sworn duty, as the judges of the facts, to base your verdict upon anything but the evidence received in the case.

You were chosen as jurors for this trial in order to evaluate all of the evidence received and to decide each of the factual questions presented by the allegations brought by the Plaintiff, and the denial of these allegations by the Defendant.

Nothing I say in these instructions is to be taken as an indication that I have any opinion about the facts of the case, or what that opinion is. It is not my function to determine the facts, but rather yours.

You must perform your duties as jurors without bias or prejudice as to any party. The law does not permit you to be governed by sympathy, prejudice or public opinion. All parties expect that you will carefully and impartially consider all of the evidence, follow the law as it is now being given to you, and reach a just verdict, regardless of the consequences.

This case should be considered and decided by you as an action between persons of equal standing in the community, of equal worth, and holding the same or similar stations in life. A government agency is entitled to the same fair trial at your hands as a private individual. All

persons, including government agencies, stand equal before the law, and are to be dealt with as equals in a court of justice.

When a government agency is involved, of course, it may act only through natural persons as its agents or employees; and, in general, any agent or employee of a government agency may bind the agency by his or her acts and declarations made while acting within the scope of authority delegated to him or her by the agency, or within the scope of his or her duties as an employee of the agency. Even if an act is illegal or forbidden, it may be within the scope of the employment of the agents or employees of the government agency so as to make the government agency liable for those acts.

As stated earlier, it is your duty to determine the facts, and in so doing, you must consider only the evidence I have admitted in the case. The term “evidence” includes the sworn testimony of the witnesses, sworn testimony read to you from depositions, the exhibits admitted in the record, and stipulated or admitted facts. A stipulation is a statement of fact agreed to between the parties, and you must regard stipulated facts as true.

Remember that any statements, objections or arguments made by the lawyers are not evidence in the case. The function of the lawyers is to point out those things that are most significant or most helpful to their side of the case, and in so doing, to call your attention to certain facts or inferences that might otherwise escape your notice.

In the final analysis, however, it is your own recollection and interpretation of the evidence that controls. What the lawyers say is not binding upon you.

So, while you should consider only the evidence in the case, you are permitted to draw such reasonable inferences from the testimony and exhibits as you feel are justified in the light of your own experience. In other words, you may make deductions and reach conclusions which reason and common sense lead you to draw from the facts which have been established by the testimony and evidence in the case.

Unless you are otherwise instructed, the evidence in the case always consists of the sworn testimony of the witnesses, regardless of who may have called them; all exhibits received as evidence, regardless of who may have produced them; and all facts which may have been stipulated or judicially noticed.

Any evidence as to which an objection was sustained by the Court, and any evidence ordered stricken by the Court, must be entirely disregarded.

Unless you are otherwise instructed, anything you may have seen or heard outside the courtroom is not evidence and must be entirely disregarded.

You, as jurors, are the sole judges of the credibility of the witnesses and the weight their

testimony deserves. You may be guided by the appearance and conduct of the witness, or by the manner in which the witness testifies, or by the character of the testimony given, or by the evidence to the contrary of the testimony given.

You should carefully scrutinize all the testimony, given the circumstances under which each witness has testified, and every matter in evidence which tends to show whether a witness is worthy of belief. Consider each witness' intelligence, motive and state of mind, and demeanor or manner while on the stand. Consider the witness' ability to observe the matters as to which the witness has testified, and whether the witness impresses you as having an accurate recollection of these matters. Consider also any relation each witness may bear to either side of the case; the manner in which each witness might be affected by the verdict; and the extent to which, if at all, each witness is either supported or contradicted by other evidence in the case.

Inconsistencies or discrepancies in the testimony of a witness, or between the testimony of different witnesses, may or may not cause the jury to discredit such testimony. Two or more persons witnessing an incident or a transaction may see or hear it differently; an innocent misrecollection, like failure of recollection, is not an uncommon experience. In weighing the effect of a discrepancy, always consider whether it pertains to a matter of importance or an unimportant detail, and whether the discrepancy results from innocent error or intentional falsehood.

After making your own judgment, you will give the testimony of each witness such weight, if any, as you may think it deserves.

You may, in short, accept or reject the testimony of any witness in whole or in part.

Also, the weight of the evidence is not necessarily determined by the number of witnesses testifying to the existence or non-existence of any fact. You may find that the testimony of a small number of witnesses as to any fact is more credible than the testimony of a larger number of witnesses to the contrary.

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 evidence in the case.

There are, generally speaking, two types of evidence from which a jury may properly find the truth as to the facts of a case. One is direct evidence-such as the testimony of an eyewitness. The other is indirect or circumstantial evidence-the proof of a chain of circumstances pointing to the existence or non-existence of certain facts.

As a general rule, the law makes no distinction between direct or circumstantial evidence, but simply requires that the jury find the facts in accordance with the preponderance of all the

evidence in the case, both direct and circumstantial.

THE NATURE OF THE CLAIMS

This is an action brought under Title VII of the Civil Rights Act of 1964, as amended (“Title VII”). Title VII makes it unlawful for an employer to discriminate against any individual with respect to the employee’s terms, conditions, or privileges of employment because of their gender. Title VII also forbids an employer from retaliating against an employee who has complained of discrimination.

The Plaintiff, Kathleen Flaherty, alleges that the Defendant, Office of the Clerk of the Circuit Court of Cook County, a government agency, violated Title VII: 1) because one of her supervisor’s sexually harassed her, 2) because she was subjected to a hostile work environment by reason of her gender, and 3) because the Defendant retaliated against her as a result of her complaints of sexual harassment.

The Defendant, Office of the Clerk of the Circuit Court of Cook County, denies that a supervisor sexually harassed Ms. Flaherty, denies that it created a hostile work environment, and denies that it retaliated against Ms. Flaherty because of her complaints of sexual harassment.

THE STATUTE DEFINING THE CLAIM

Title VII states in relevant part:

“It shall be an unlawful employment practice for an employer —
(1) to fail or refuse to hire or to discharge any individual, or to otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because of such individual’s race, color, religion, sex, or national origin. . . .”

Title VII also states:

“It shall be an unlawful employment practice for an employer to discriminate against any of his employees . . . because he has opposed any practice made an unlawful employment practice by this subchapter or because he has made a charge . . . or participated in any manner in an investigation, proceeding or hearing under this subchapter.”

PREPONDERANCE OF THE EVIDENCE STANDARD

The burden is on the Ms. Flaherty in a civil action such as this to prove every essential element of her claim by a "preponderance of the evidence." However, as you will be instructed

regarding certain defenses, Defendant may in some instances bear the burden to prove by a “preponderance of the evidence” certain facts.

A “preponderance of the evidence” means such evidence as, when considered and compared with that opposed to it, has more convincing force and produces in your minds a belief that what is sought to be proved is more likely true than not true. In other words, to establish a claim by a preponderance of the evidence means to prove that the claim is more likely so than not so. This rule does not, of course, require proof to an absolute certainty, since proof to an absolute certainty is seldom possible in any case.

In determining whether any fact in issue has been proved by a "preponderance of the evidence", the jury may 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.

If the proof should fail to establish any essential element of Ms. Flaherty’s claim by a preponderance of the evidence, then she has failed to carry her burden of proof by a preponderance of the evidence and you must return a verdict for the Defendant.

When I say in these instructions that a party has the burden of proof on any proposition, or use the expression "if you find", or "if you decide", I mean you must be persuaded, considering all the evidence in the case, that the proposition is more probably true than not true.

FILING REQUIREMENT

In order to sustain a claim for relief under Title VII, the actions complained of by Ms. Flaherty must have occurred within 300 calendar days of the time she filed her charge with the Equal Employment Opportunity Commission (“EEOC”).

A question here which you, as jurors, must decide is whether Ms. Flaherty did indeed deliver the charge questionnaire, marked as Joint Exhibit 15, in June 1998 to the Chicago District Office of the EEOC.

If you are satisfied that Ms. Flaherty proved that she delivered Joint Exhibit 15 to the EEOC in June 1998, proceed to address the essential elements of all three of the Plaintiff’s claims below.

If you find that Ms. Flaherty did not deliver Joint Exhibit 15 to the EEOC in June 1998 do not consider any actions that took place prior to August 1998. You are therefore not to consider claim 1, and you should only consider claims 2 and 3. Please answer the Special

Interrogatory Number 1 which is found at the end of these instructions and which states as follows: Did Kathleen Flaherty deliver the charge questionnaire (Joint Exhibit 15) in June 1998 to the EEOC?

SUPERVISOR OR COWORKER

A second question which you, as jurors, must decide is whether Mr. Marchand was Ms. Flaherty's supervisor or simply a coworker.

A supervisor is a person with immediate or higher authority over the employee. The essence of supervisory status is the authority to affect the terms and conditions of Ms. Flaherty's employment. This authority primarily consists of the power to hire, fire, demote, promote, transfer or discipline an employee.

Please answer Special Interrogatory number 2, which is found at the end of these instructions which states as follows: Was Cecil Marchand Ms. Flaherty's supervisor at the Records Center?

THE ESSENTIAL ELEMENTS OF THE PLAINTIFF'S CLAIMS

I. Claim 1 - Sexual Harassment

Sexual harassment occurs in situations where a person's submission to sexual demands is made a condition on her receiving tangible employment benefits. Defendant, Office of the Clerk of the Circuit Court of Cook County, the employer, is responsible for the actions of Mr. Marchand, if you find that Mr. Marchand was Ms. Flaherty's supervisor, and if Plaintiff proves by a preponderance of the evidence each of the following elements:

1. Ms. Flaherty was subjected to unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature by an individual the Defendant employer placed in a position of authority over her.
2. The supervisor's conduct was unwelcome by Ms. Flaherty.
3. Ms. Flaherty's acceptance or rejection of the above conduct by the supervisor was an express or implied condition for the receipt of a job benefit or the imposition of a tangible job detriment.
4. There was an adverse tangible employment action.

5. Ms. Flaherty’s rejection of the supervisor’s conduct was a motivating factor in the adverse tangible employment action.

Definition:

Tangible Employment Action: A tangible employment action constitutes a significant change in employment status, such as, hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing significant change in benefits.

If you find in favor of Ms. Flaherty and against the Defendant for sexual harassment, you should calculate damages using Jury Verdict Form number 1, which reads as follows:

“We the jury find in favor of Plaintiff Kathleen Flaherty and against Defendant, Office of the Circuit Court Clerk of Cook County, for sex harassment in violation of Title VII of the Civil Rights Act, as amended. Having found in favor of Plaintiff Kathleen Flaherty and against the Defendant, we assess:

- (1) lost wages and benefits damages in the following amount:
\$ _____;
- (2) compensatory damages in the following amount:
\$ _____.”

If any of the above elements has not been proved by a preponderance of the evidence, your verdict must be in favor of the Defendant, and you should use Jury Verdict Form Number 2 which reads as follows:

“We, the jury, find in favor of Defendant, Office of the Circuit Court Clerk of Cook County, and against Plaintiff Kathleen Flaherty, for sexual harassment in violation of Title VII of the Civil Rights Act, as amended.”

II. Claim 2 - Hostile Work Environment

Ms. Flaherty may succeed on a sexual harassment claim even if there is no tangible employment action, as required above. In such an instance, Ms. Flaherty must have been subjected to a hostile working environment based on her gender to prevail. In this case, Ms. Flaherty will prevail if she proves one of the two sets of elements.

In order to determine whether to use subparagraph (A) for supervisor or subparagraph (B)

for co-worker, refer to Special Interrogatory number 2.

(A) Supervisor

In order for Ms. Flaherty to prevail, she must prove the following elements:

1. Cecil Marchand was Kathleen Flaherty’s supervisor.
2. Ms. Flaherty, was subjected to unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature by an individual the Defendant employer placed in a position of authority over her.
3. The above conduct was unwelcome.
4. The conduct was based on Ms. Flaherty’s gender.
5. The conduct was sufficiently severe or pervasive that a reasonable person in Ms. Flaherty’s position would find her work environment to be hostile or abusive.
6. At the time the conduct occurred and as a result of the conduct, Ms. Flaherty believed her work environment to be hostile or abusive.

If you find in favor of Ms. Flaherty, and against the Defendant for Hostile Work Environment, you should calculate damages based on Jury Verdict Form 3, which states as follows:

“We, the jury, find in favor of Plaintiff Kathleen Flaherty and against Defendant Office of the Circuit Court Clerk of Cook County, for hostile work environment. Having found in favor of Plaintiff Kathleen Flaherty and against the Defendants, we assess:

(1)lost wages and benefits damages in the following amount:
\$_____;

(2)compensatory damages in the following amount:
\$_____.”

If any of the above elements, 1-6, has not been proven by a preponderance of the evidence, your verdict must be for the Defendant, and you should use Jury Verdict Form 4 which reads as follows:

“We, the jury, find in favor of Defendant Office of the Circuit Court Clerk of Cook County and against Plaintiff Kathleen Flaherty, for hostile

work environment.”

(B) Co-worker:

In order for Ms. Flaherty to prevail, she must prove the following elements:

1. Ms. Flaherty, was subjected to unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature by a co-worker.
2. This conduct was severe or pervasive.
3. The conduct detrimentally affected Ms. Flaherty.
4. The conduct would have detrimentally affected a reasonable person in Ms. Flaherty’s position.
5. Defendant failed to implement prompt and appropriate corrective action.

If you find in favor of the Plaintiff, Kathleen Flaherty, and against the Defendant for hostile work environment you should calculate damages based on Jury Verdict Form 3, which reads as follows:

“We, the jury, find in favor of Plaintiff Kathleen Flaherty and against Defendant Office of the Circuit Court Clerk of Cook County, for hostile work environment. Having found in favor of Plaintiff Kathleen Flaherty and against the Defendant, we assess:

(1) lost wages and benefits
damages in the following
amount:
\$ _____;

(2) compensatory damages in the
following amount:
\$ _____.”

If any of the above elements 1-5 has not been proven by a preponderance of the evidence, your verdict must be in favor of the Defendant, and you should use Jury Verdict Form 4 which states as follows:

“We, the jury, find in favor of Defendant Office of the Circuit Court Clerk of Cook County and against Plaintiff Kathleen Flaherty, for hostile work environment.”

Definition:

Hostile Work Environment A hostile work environment must be sufficiently severe or pervasive so as to alter the terms or conditions of employment. To make this determination, you must look at all of the circumstances, including: the total physical environment of Ms. Flaherty’s work area, the degree and type of obscenity that filled the environment, the reasonable expectations of Ms. Flaherty upon entering the environment, the frequency of the offensive conduct, whether it was merely an offensive utterance, whether the conduct was physically threatening or humiliating, whether the conduct unreasonably interfered with Ms. Flaherty’s work, or whether the conduct was plainly offensive.

Conduct that amounts to ordinary socializing in the workplace, such as occasional horseplay, sexual flirtation, sporadic or occasional use of abusive language, gender-related jokes, and occasional teasing, does not constitute a hostile work environment.

III. Claim 3 - Retaliation

Title VII makes it unlawful for Defendant to discriminate against Ms. Flaherty with respect to her terms, conditions, or privileges of employment because she complained about Cecil Marchand’s sexual harassment.

To prevail on her claim of retaliation, Ms. Flaherty must prove:

- (1) That she complained of sexual harassment,
- (2) That she suffered an adverse employment action, and
- (3) Defendant took an adverse employment action against her because of the complaint of sexual harassment.

Definition:

Adverse Employment Action

An adverse employment action is defined as a significant change in employment status, such as

demoting, firing, failing to promote, reassignment with significant different responsibilities, or a decision causing significant change in benefits. A lateral transfer that does not materially alter the terms and conditions of employment does not constitute an adverse employment action.

DEFENSES TO RETALIATION CLAIM

You must consider any legitimate, non-discriminatory reason or explanation stated by the Defendant for any adverse employment action. A legitimate, non-discriminatory reason is any reason or explanation unrelated to Ms. Flaherty's complaint of sexual harassment. In considering the legitimate, non-discriminatory reason stated by the Defendant for its decision, you are not to substitute your personal judgment for the Defendant's business judgment and you are not to allow your own personal employment experience to impact your decision.

Defendant maintains that Ms. Flaherty was terminated for non-discriminatory reasons: falsification of time-keeping records, accumulation of attendance points, and job abandonment.

If you find that the Defendant has stated legitimate, non-discriminatory reasons for its decisions, then you must find for Defendant unless Ms. Flaherty proves by a preponderance of the evidence that all of the Defendant's stated reasons were not the true reasons for its decisions, but are only pretext or phony reasons for discriminating against Ms. Flaherty because of her complaint of sexual harassment.

Ms. Flaherty has introduced evidence that Defendant's articulated reason for Defendant's action is pretext for discrimination. When you consider Ms. Flaherty's evidence of pretext, remember that the relevant question is whether the Defendant's reason was not the real reason for Defendant's actions.

You are not to consider whether the Defendant's reason showed poor or erroneous judgment. You are not to consider the Defendant's wisdom. However you may consider whether Defendant's reason was merely a cover-up for discrimination.

You may consider whether the Defendant's reasons are consistent with the Defendant's own policies and rules and whether the Defendant has applied these policies and rules uniformly. You should also carefully evaluate any subjective reasons Defendant has asserted for its actions.

Ms. Flaherty has the burden to persuade you by a preponderance of the evidence that the Defendant took action against her because of her gender. If you do not believe the Defendant's explanations, you may, but are not required to, infer that Ms. Flaherty has satisfied her burden of proof that Defendant intentionally discriminated against her because of her gender.

If you find in favor of Plaintiff Kathleen Flaherty and against the Defendant Office of the Circuit Court Clerk of Cook Court for retaliation you should calculate damages using Jury Verdict Form number 5, which reads as follows:

“We the jury find in favor of Plaintiff Kathleen Flaherty and against Defendant Office of the Circuit Court Clerk of Cook County for retaliation in violation of Title VII of the Civil Rights Act, as amended. Having found in favor of Plaintiff Kathleen Flaherty and against the Defendant, we assess:

- (1) lost wages and benefits damages in the following amount:
\$ _____;
- (2) compensatory damages in the following amount:
\$ _____.”

_____ If you find that the Plaintiff has failed to prove any of the elements then you must sign a verdict form in favor of the Defendant and you should use Verdict Form 6 which reads as follows:

_____ “We, the jury, find in favor of Defendant Office of the Circuit Court Clerk of Cook County and against Plaintiff Kathleen Flaherty, for retaliation.”

DAMAGES

If you find that the Defendant did not sexually harass, create a hostile work environment, or retaliate against Ms. Flaherty, you need not consider the question of damages.

If you have found that the Defendant has sexually harassed, created a hostile work environment, or retaliated against Ms. Flaherty because of her complaint, then you must consider whether to award her damages. The law places a burden upon Ms. Flaherty to prove such facts as will enable you to arrive at the amount of damages with reasonable certainty and without speculation. While it is not necessary that she prove the amount of those damages with mathematical precision, she is required to present such evidence as might reasonably be expected to be available under the circumstances.

You should not interpret the fact that the Court has given instructions about Ms. Flaherty's damages as an indication in any way that the Court believes that she should, or should not, win this case.

I. Actual Damages

If you find in favor of Ms. Flaherty on any one of her claims, then you must award her such a sum as you find by the preponderance of the evidence will fairly and justly compensate her for any damages you find she sustained as a direct result of the Defendant's misconduct. Ms. Flaherty's claims for damages include two distinct types of damages and you must consider them separately:

First, you must determine the amount of any wages and fringe benefits Ms. Flaherty would have earned in her employment with Defendant if she had not been discharged in June, 1999 through the date of your verdict, minus the amount of earnings and benefits that she received from other employment during that time.

Second, you must determine the amount of any other damages sustained by Ms. Flaherty, such as out-of-pocket expenses, emotional pain, suffering, inconvenience, and mental anguish.

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

You must enter separate amounts for each type of damages in the verdict form and must not include the same items in more than one category on each verdict form.

II. Mitigation of Damages

Ms. Flaherty must make every reasonable effort to minimize or reduce her damages for loss of compensation by seeking other employment. This is called mitigation of damages.

The Defendant bears the burden of proving by a preponderance of the evidence that Ms. Flaherty failed to exercise reasonable diligence in seeking employment. To meet this burden, the Defendant must show that: (1) Ms. Flaherty was not reasonably diligent in seeking other employment; and (2) had she been reasonably diligent, there was a reasonable chance she might have found comparable employment. In determining what is "comparable employment," the law does not require Ms. Flaherty to go into another line of work, accept a demotion, or take a demeaning position.

You must find that Ms. Flaherty has acted with reasonable diligence, even if she did not succeed in finding comparable employment, if you find that she made an honest, good faith effort to seek employment. If you determine that the Defendant has failed to prove that Ms. Flaherty did not exercise reasonable diligence, you must not reduce her damages.

If you determine that Ms. Flaherty did not make reasonable efforts to obtain another similar job, you must decide whether any damages resulted from her failure to do so. You must

not compensate her for any portion of her damages that resulted from her failure to make reasonable efforts to reduce her damages.

VERDICT - UNANIMOUS - DUTY TO DELIBERATE

The verdict must represent the considered judgment of each juror. In order to return a verdict, it is necessary that each juror agree. Your verdict must be unanimous.

It is your duty, as jurors, to consult with one another, and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. You must each decide the case for yourself, but only after an impartial consideration of the evidence in the case with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own views, and change your opinion, if convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence, solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

Remember at all times that you are not partisans. You are judges-judges of the facts. Your sole interest is to seek the truth from the evidence in the case.

EFFECT OF INSTRUCTION AS TO DAMAGES

The fact that the Court has instructed you as to the proper measure of damages should not be considered as intimating any view of the Court as to which party is entitled to your verdict in this case. Instructions as to the measure of damages are given for your guidance, in the event you should find in favor of Ms. Flaherty from a preponderance of the evidence in the case in accordance with the other instructions.

SELECTION OF A FOREPERSON

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

VERDICT FORMS

Verdict forms have been prepared for your convenience. You will take the verdict forms to the jury room and, when you have reached unanimous agreement as to your verdict, you will all sign and date the form which sets forth the verdict upon which you unanimously agree, and then return with your verdict to the courtroom.

VERDICT FORMS - JURY'S RESPONSIBILITY

It is proper to add the caution that nothing said in these instructions and nothing in any form of verdict prepared for your convenience is meant to suggest or convey in any way or manner any intimation as to what verdict the Court thinks you should find. What the verdict shall be is your sole and exclusive duty and responsibility.

COMMUNICATIONS BETWEEN COURT AND JURY DURING DELIBERATIONS

If it becomes necessary during your deliberations to communicate with the Court, you may send a note by a bailiff, signed by your foreperson or by one or more members of the jury. No member of the jury should ever attempt to communicate with the court by any means other than a signed writing, and the Court will never communicate with any member of the jury on any subject touching the merits of the case otherwise than in writing, or orally here in open court.

You will note from the oath about to be taken by the bailiff that [s]he too, as well as all other persons, are forbidden to communicate in any way or manner with any member of the jury on any subject touching the merits of the case.

Bear in mind that you are never to reveal to any person -- not even to the Court -- how the jury stands, numerically or otherwise, on the questions before you, until after you have reached a unanimous verdict.

SPECIAL INTERROGATORY NUMBER 1

Did Kathleen Flaherty deliver the charge questionnaire (Joint Exhibit 15) in June 1998 to the EEOC?

YES _____

NO _____

Date

Foreperson

If you answer the question Yes, you are to consider all three of Ms. Flaherty's claims.

If you answer this question No, you are not to consider claim 1 and you should only consider claims 2 and 3 for events occurring after August, 1998.

SPECIAL INTERROGATORY NUMBER 2

Was Cecil Marchand Ms. Flaherty's supervisor at the Records Center?

YES _____

NO _____

Date

Foreperson

JURY VERDICT FORM 1 - Sexual Harassment - Claim 1

We, the jury, find in favor of Plaintiff Kathleen Flaherty and against Defendant Office of the Circuit Court Clerk of Cook County for sexual harassment in violation of Title VII of the Civil Rights Act, as amended. Having found in favor of Plaintiff Kathleen Flaherty and against the Defendant, we assess:

- (1) lost wages and benefits damages in the following amount:
\$ _____;

- (2) compensatory damages in the following amount:
\$ _____.

Date

Foreperson

JURY VERDICT FORM 2 - Sexual Harassment - Claim 1

We, the jury, find in favor of Defendant Office of the Circuit Court Clerk of Cook County and against Plaintiff Kathleen Flaherty, for sexual harassment in violation of Title VII of the Civil Rights Act, as amended.

Date

Foreperson

JURY VERDICT FORM 3 - Hostile Work Environment - Claim 2

We, the jury, find in favor of Plaintiff Kathleen Flaherty and against Defendant Office of the Circuit Court Clerk of Cook County, for hostile work environment. Having found in favor of Plaintiff Kathleen Flaherty and against the Defendant, we assess:

- (1) lost wages and benefits damages in the following amount:
\$ _____;

- (2) compensatory damages in the following amount:
\$ _____.

Date

Foreperson

JURY VERDICT FORM 4 - Hostile Work Environment - Claim 2

We, the jury, find in favor of Defendant Office of the Circuit Court Clerk of Cook County and against Plaintiff Kathleen Flaherty, for hostile work environment.

Date

Foreperson

JURY VERDICT FORM 5 - Retaliation - Claim 3

We, the jury, find in favor of Plaintiff Kathleen Flaherty and against Defendant, Office of the Circuit Court Clerk of Cook County, for retaliation. Having found in favor of Plaintiff Kathleen Flaherty and against the Defendant, we assess:

- (1) lost wages and benefits damages in the following amount:
\$ _____;

- (2) compensatory damages in the following amount:
\$ _____.

Date

Foreperson

JURY VERDICT FORM 6 - Retaliation - Claim 3

We, the jury, find in favor of Defendant, Office of the Circuit Court Clerk of Cook County, and against Plaintiff Kathleen Flaherty, for retaliation.

Date

Foreperson

