

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

RITA S. BLEDSOE

PLAINTIFF

v.

CIVIL ACTION NO. 3:96CV-183-S

FULFILLMENT CONCEPTS, INC.

DEFENDANT

JURY INSTRUCTIONS

Ladies and Gentlemen:

Now that you have heard all of the evidence, and the argument of the attorneys, it is my duty to give you instructions as to the law applicable in this case.

It is your duty as jurors to follow the law as stated in the instructions, and to apply that law to the facts you find from the evidence.

You are not to single out one instruction alone as stating the law. You must consider the instructions as a whole.

You are not to be concerned with the wisdom of any rule of law stated by the Court. You must apply the law given in these instructions whether you agree with it or not.

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 and the exhibits admitted in the record. It is your own interpretation and recollection of the evidence that controls.

You are permitted to draw reasonable inferences, deductions, and conclusions from the testimony and exhibits which you feel are justified in the light of your own common sense.

In saying that you must consider all the evidence, I do not mean to suggest that you must necessarily accept all of the evidence as true or accurate. You are the sole judges of the credibility or believability of each witness, and the weight to be given to the testimony of each witness.

In determining the credibility of any witness, you may properly consider the demeanor of the witness while testifying, frankness or lack of it, and his or her interest in the outcome of the case, if any.

The statements, objections, and arguments made by the lawyers are not evidence. What the lawyers have said to you is not binding upon you.

The weight of the evidence is not necessarily determined by the number of witnesses testifying as to the existence or nonexistence of any fact. You should be guided in your deliberations by the quality and credibility of the evidence you have heard.

This case should be considered and decided by you as an action between persons of equal standing in the community, holding the same or similar stations in life. A corporation is entitled to the same fair trial at your hands as an individual. All persons, including corporations, stand equal before the law.

The Americans With Disabilities Act and the Kentucky Civil Rights Act provide that it is unlawful for an employer to discriminate against a qualified person with a disability because of that person's disability.

In order for the plaintiff, Rita Bledsoe, to recover on her claim of disability discrimination against the defendant, Fulfillment Concepts, Inc. (FCI), she has the burden of proving the following elements are more likely true than not true:

1. That the plaintiff was, in October, 1994, a “qualified person with a disability;”
2. That the defendant made a decision not to accept the plaintiff for temporary employment; and
3. That the defendant's decision, if any, was motivated by the fact that the plaintiff was a person with a disability.

The parties have agreed that the plaintiff was a person with a disability, and thus, that must be taken as established in this case.

If you find from the evidence that the plaintiff has proved each of these elements, then your verdict will be for the plaintiff on Verdict Form No. 1. If you find that the plaintiff has not proved each of these elements, then your verdict will be for the defendant on Verdict Form No. 1.

Since some of the words and phrases used in these elements have specific meanings, I will now instruct you as to those specific meanings.

The phrase “qualified person with a disability” has a special meaning. It means a person, such as the plaintiff, with a disability, who, with or without reasonable accommodation, can perform the essential functions of the job for which the plaintiff applied.

The “essential functions” of an employment position are fundamental duties of the job the plaintiff sought. It does not include the marginal functions of the position.

You may consider the following evidence in determining the essential functions of the employment position:

1. The employer's judgment as to what functions of a job are essential;

2. The amount of time spent on the job performing the function;
3. The consequences of not requiring the plaintiff to perform the function; and
4. The nature of the work operations and the employer's organizational structure.

“Reasonable accommodation” means making modifications to the workplace which allows a person with a disability to perform the essential functions of the job or allows a person with a disability to enjoy the same benefits and privileges as an employee without a disability.

If you have found for the plaintiff, you will proceed with the remaining instructions which concern damages. If you have found for the defendant, you will end your deliberations and return to the courtroom.

If you have found for the plaintiff on Verdict From No. 1, you will award her such sums of damages as you believe from the evidence she has sustained by reason of the defendant's conduct in discriminating against her because of her disability.

The parties have agreed that the wages the plaintiff would have made had she been hired are \$500.00. Therefore, if you have found for the plaintiff and against the defendant, you must award her this sum.

In addition, you may award the plaintiff additional damages for emotional distress, humiliation, and/or embarrassment if you believe she has sustained such injuries directly by reason of the defendant's discriminatory conduct. You will record your verdict on these matters on Verdict Form No. 2. If you find that she has not sustained any injuries for the items claimed, then you will indicate "0" on the verdict form.

Your 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 reexamine 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.

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

Forms of verdict have been prepared for your convenience.

You will take these forms to the jury room and, when you have reached unanimous agreement as to your verdict, you will have your foreperson fill in, date and sign the forms which set forth the verdict upon which you unanimously agree with respect to each issue in this case; you will then return with your verdict to the courtroom.