

Ashley Alford

vs.

Richard Moore and Aaron Rents Inc.,

Case No. 08-683-MJR

General Jury Instructions

Applicable to

All Counts

Members of the jury, you have seen and heard all the evidence and arguments of the attorneys. Now 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.

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.

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

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

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

During the trial, certain testimony was presented to you by depositions and video. You should give this testimony the same consideration you would give it had the witnesses appeared and testified here in court.

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

First, if I told you to disregard any testimony or exhibits or struck any testimony or exhibits from the record, such testimony or exhibits 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. This includes any press, radio, Internet or television reports you may have seen or heard. Such reports are not evidence and your verdict must not be influenced in any way by such publicity.

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.

Any notes you have taken during this trial are only aids to your memory. The notes are not evidence. If you have not taken 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.



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

You will recall that during the course of this trial I instructed you that I admitted certain evidence for a limited purpose. You must consider this evidence only for the limited purpose for which it was admitted.

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.

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.

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.

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

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.

You may consider those statements given by Ashley Alford, Chad Strickland, Brad Martin, and Richard Moore before trial 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.



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.

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 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.

There are two defendants in this case. The rights of the defendants, Richard Moore and Aaron Rents, Inc. are separate and distinct. Each is entitled to a fair consideration of his own defense and you will decide each defendant's case separately as if it were a separate lawsuit. Each defendant's case must be governed by the instructions applicable to that case.

If you decide for any of the defendants on the question of liability, then you should not consider the question of damages for that Count of the Complaint as to that defendant.

Upon retiring to the jury room, you must select a presiding juror. The presiding juror will preside over your deliberations and will be your representative here in Court.

Forms of verdict have been prepared for you.

Take these forms to the jury room, and when you have reached unanimous agreement on the verdict, your presiding juror will fill in, date, and sign the appropriate form.

I do not anticipate that you will need to communicate with me. If you do need to communicate with me, the only proper way is in writing. The writing must be signed by the presiding juror, or, if he or she is unwilling to do so, by some other juror. The writing should be given to the marshal, who will give it to me. I will respond either in writing or by having you return to the courtroom so that I can respond orally.

If you do communicate with me, you should not indicate in your note what your numerical division is, if any.

The verdicts must represent the considered judgment of each juror. Your verdicts, whether for or against the parties, 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 opinions of your fellow jurors. Discuss your differences with an open mind. Do not hesitate to reexamine 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 other jurors or for the purpose of returning a unanimous verdict.

All of you should give fair and equal consideration to all the evidence and deliberate with the goal of reaching an agreement that is consistent with the individual judgment of each juror. You are impartial judges of the facts.

In fixing the amount of money which will reasonably and fairly compensate the plaintiff, you are to consider that an injured person must exercise ordinary care to obtain psychological treatment. Damages proximately caused by a failure to exercise such care cannot be recovered.



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Jury Instructions Applicable to

Count I-Assault –Richard Moore Defendant

The issues to be decided by you under Count I of the Complaint - "Assault" - are as follows:

The Plaintiff claims she was assaulted by Richard Moore in one or more of the following respects:

- Richard Moore inappropriately and intentionally called Ashley Alford "Trixie" or "Trix;"
- Richard Moore inappropriately and intentionally demanded that Ashley Alford perform oral sex on him;
- Richard Moore inappropriately and intentionally touched Ashley Alford, making unwanted advances toward her which included "goosing" her, pinching her, coming up close behind her in a threatening way;
- Richard Moore inappropriately and intentionally touched Ashley Alford's chest and/or buttocks;
- Richard Moore inappropriately and intentionally removed his penis from his pants, and hit her on the head with it as Ashley Alford was kneeling on the floor in a stock room;
- Richard Moore inappropriately and intentionally held Ashley Alford down on a couch, raised her shirt exposing her chest, and intentionally masturbated on Ashley Alford.

The Plaintiff further claims that one or more of the foregoing was the proximate cause of her damages.

Richard Moore denies that he did any of the things claimed by the Plaintiff and denies that any act or omission on his part was a proximate cause of the Plaintiff's claimed damages.

When I use the expression “proximate cause,” I mean a cause that, in the natural or ordinary course of events, produced the plaintiff’s damages. It need not be the only cause, nor the last or nearest cause. It is sufficient if it combines with another cause resulting in the damages.

When I say 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 on which she has the burden of proof is more probably true than not true.

Under Count I – “Assault” - the Plaintiff has the burden of proving each of the following propositions:

First, that Richard Moore acted or failed to act in one of the ways claimed by the Plaintiff as stated to you in these instructions and that in so acting, or failing to act, Richard Moore placed Ashley Alford in reasonable apprehension of an imminent battery,

Second, that the conduct of Richard Moore was a proximate cause of the damages suffered by Plaintiff.

If you find from your consideration of all the evidence that each of these propositions has been proved, then your verdict should be for the Plaintiff. On the other hand, if you find from your consideration of all the evidence that any of these propositions has not been proved, then your verdict should be for Richard Moore.

When I use the word “assault,” I mean a reasonable apprehension of an imminent battery.

When I use the word “battery,” I mean the unauthorized contact with another’s person.

When I use the word “contact,” I mean the touching, without permission, of another person’s body, or anything attached to that person’s body or so closely connected with the person’s body as to be identified with it.

A contact is harmful if it causes a person to be physically injured. A contact is offensive if it would be objectionable to a reasonable person, considering all of the surrounding facts and circumstances. A contact need not cause any actual physical injury in order to be offensive.



If you decide for the plaintiff on the question of liability, you must then fix the amount of money which will reasonably and fairly compensate her for any of the following elements of damages proved by the evidence to have resulted from the assault committed by Richard Moore, taking into consideration the nature, extent and duration of the injury and the aggravation of any pre-existing ailment or condition:

- The pain and suffering experienced and reasonably certain to be experienced in the future as a proximate cause of the assault;
- The humiliation, indignity and vexation suffered by Ashley Alford as a proximate cause of the assault,
- The emotional distress experienced and reasonably certain to be experienced in the future as a proximate cause of the assault;
- The loss of a normal life experienced and reasonably certain to be experienced in the future as a proximate cause of the assault.

Whether any of these elements of damages has been proved by the evidence is for you to determine.

When I use the expression “loss of a normal life,” I mean the temporary or permanent diminished ability to enjoy life. This includes a person’s inability to pursue the pleasurable aspects of life.

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Count II-Battery –Richard Moore Defendant

The issues to be decided by you under Count II of the Complaint - "Battery" - are as follows:

The Plaintiff claims that Richard Moore committed a "battery" in one or more of the following respects:

- Richard Moore intentionally touched Ashley Alford by "goosing" her,
- Richard Moore intentionally touched Ashley Alford by making unwanted advances toward her, which included pinching her, and/or touching her chest, and/or touching her buttocks and/or by rubbing himself up against her;
- Richard Moore intentionally removed his penis from his pants, and hit her on the head with it as Ashley Alford was kneeling on the floor in a stock room on at least one occasion;
- Richard Moore intentionally pushed Ashley Alford down, raised her shirt exposing her chest, and intentionally masturbated on Ashley Alford.

The Plaintiff further claims that one or more of the foregoing was the proximate cause of her damages.

Richard Moore denies that he did any of the things claimed by the Plaintiff and denies that any act or omission on his part was a proximate cause of the Plaintiff's claimed damages.

When I use the expression “proximate cause,” I mean a cause that, in the natural or ordinary course of events, produced the plaintiff’s damages. It need not be the only cause, nor the last or nearest cause. It is sufficient if it combines with another cause resulting in the damages.

When I say 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 on which she has the burden of proof is more probably true than not true.

Under Count II – Battery - the Plaintiff has the burden of proving each of the following propositions:

First, that Richard Moore acted or failed to act in one of the ways claimed by the Plaintiff as stated to you in these instructions and that in so acting, or failing to act, Richard Moore committed a battery upon Ashley Alford,

~~Second~~  
~~Third~~, that the conduct of Richard Moore was a proximate cause of the damages suffered by Plaintiff.

If you find from your consideration of all the evidence that each of these propositions has been proved, then your verdict should be for the Plaintiff. On the other hand, if you find from your consideration of all the evidence that any of these propositions has not been proved, then your verdict should be for Richard Moore.

When I use the word "battery," I mean the unauthorized contact with another's person.



When I use the word “contact,” I mean the touching, without permission, of another person’s body, or anything attached to that person’s body or so closely connected with the person’s body as to be identified with it.

A contact is harmful if it causes a person to be physically injured. A contact is offensive if it would be objectionable to a reasonable person, considering all of the surrounding facts and circumstances. A contact need not cause any actual physical injury in order to be offensive.

If you decide for the plaintiff on the question of liability, you must then fix the amount of money which will reasonably and fairly compensate her for any of the following elements of damages proved by the evidence to have resulted from the battery committed by Richard Moore, taking into consideration the nature, extent and duration of the injury and the aggravation of any pre-existing ailment or condition:

- The pain and suffering experienced and reasonably certain to be experienced in the future as a proximate cause of the battery;
- The humiliation, indignity and vexation suffered by Ashley Alford as a proximate cause the battery,
- The emotional distress experienced and reasonably certain to be experienced in the future as a proximate cause of the battery;
- The loss of a normal life experienced and reasonably certain to be experienced in the future as a proximate cause of the battery.

Whether any of these elements of damages has been proved by the evidence is for you to determine.

When I use the expression “loss of a normal life,” I mean the temporary or permanent diminished ability to enjoy life. This includes a person’s inability to pursue the pleasurable aspects of life.

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Count V-Failure to Supervise – Aaron Rents Inc. Defendant

The issues to be decided by you under Count V of the Complaint - "Negligent Supervision" - are as follows:

The Plaintiff claims that she was injured and sustained damage and that Aaron Rents, Inc. negligently failed to supervise Richard Moore.

The Plaintiff further claims that the foregoing negligent supervision was the proximate cause of her damages.

Aaron Rents, Inc. denies that it was negligent in supervising Richard Moore, and denies that any claimed act or omission on the part of Aaron Rents, Inc. was a proximate cause of the Plaintiff's claimed damages.

Aaron Rents, Inc. further denies that Ashley Alford was injured or sustained damages.

Under Count V – Negligent Supervision - the Plaintiff has the burden of proving each of the following propositions:

First, that Aaron Rents, Inc. negligently supervised Richard Moore in that it knew or should have known that Richard Moore was unfit to be a General Manager at the store operated by Aaron Rents, Inc. so as to create a danger or harm to Ashley Alford;

Second, that Aaron Rents, Inc. knew, or should have known, during the time that it supervised Richard Moore as a General Manager that Richard Moore was unfit to be a General Manager at the store operated by Aaron Rents, Inc.;

Third, the lack of supervision by Aaron Rents, Inc. was the proximate cause of damage to Ashley Alford.

If you find from your consideration of all the evidence that each of these propositions has been proved, then your verdict should be for the Plaintiff. On the other hand, if you find from your consideration of all the evidence that any of these propositions has not been proved, then your verdict should be for Aaron Rents, Inc..

When I use the expression “proximate cause,” I mean a cause that, in the natural or ordinary course of events, produced the plaintiff’s injury. It need not be the only cause, nor the last or nearest cause. It is sufficient if it combines with another cause resulting in the damages.

When I say 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 on which he has the burden of proof is more probably true than not true.



When I use the word “negligence” in these instructions, I mean the failure to do something which a reasonably careful person would do, or the doing of something which a reasonably careful person would not do, under circumstances similar to those shown by the evidence. The law does not say how a reasonably careful person would act under those circumstances. That is for you to decide.

When I use the words “ordinary care,” I mean the care a reasonably careful person would use under circumstances similar to those shown by the evidence. The law does not say how a reasonably careful person would act under those circumstances. That is for you to decide.

When I use the expression “loss of a normal life,” I mean the temporary or permanent diminished ability to enjoy life. This includes a person’s inability to pursue the pleasurable aspects of life.

Richard Moore was the agent of the defendant, Aaron Rents, Inc., at and before the time of the events set forth in these instructions. Therefore, any act or omission of the agent at that time was in law the act or omission of the defendant, Aaron Rents, Inc. if he was acting in the scope of his employment.

One of the questions for you to determine is whether or not Richard Moore or any other Aarons' employee was acting within the scope of his/her employment.

An employee is acting within the scope of his/her employment if each of the following is shown by the evidence:

- (a) The employee's conduct is of a kind he/she is employed to perform or reasonably could be said to have been contemplated as part of his/her employment; and
- (b) The employee's conduct occurs substantially within the authorized time and space limits of his/her employment; and
- (c) The employee's conduct is motivated, at least in part, by a purpose to serve the employer.

If you decide for the plaintiff on the question of liability, you must then fix the amount of money which will reasonably and fairly compensate her for any of the following elements of damages proved by the evidence to have resulted from the negligence of Aaron Rents, Inc., taking into consideration the nature, extent and duration of the injury and the aggravation of any pre-existing ailment or condition:

- The pain and suffering experienced and reasonably certain to be experienced in the future as a proximate cause of the negligent supervision;
- The humiliation, indignity and vexation suffered by Ashley Alford as a proximate ~~result~~ <sup>cause</sup> of the negligent supervision,
- The emotional distress experienced and reasonably certain to be experienced in the future as a proximate cause of the negligent supervision;
- The loss of a normal life experienced and reasonably certain to be experienced in the future as a proximate cause of the negligent supervision.

Whether any of these elements of damages has been proved by the evidence is for you to determine.

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Count VIII-Intentional Infliction of Emotional Distress –  
Aaron Rents Inc. Defendant

The issues to be decided by you under Count VIII of the Complaint - "Intentional Infliction of Emotional Distress" - are as follows:

The Plaintiff claims that she sustained damages and that Aaron Rents, Inc. is liable for causing her emotional distress in one or more of the following respects:

First, that:

- Richard Moore inappropriately and intentionally demanded that Ashley Alford perform oral sex on him;
- Richard Moore intentionally touched Ashley Alford by making unwanted advances toward her, which included pinching her, and/or touching her chest, and/or touching her buttocks and/or by rubbing himself up against her;
- Richard Moore inappropriately and intentionally removed his penis from his pants, and hit her on the head with it;
- Richard Moore inappropriately and intentionally held Ashley Alford down, raised her shirt exposing her abdomen, and intentionally masturbated on Ashley Alford;
- That Richard Moore subjected Ashley Alford to sexual harassment.

Second, that Richard Moore's conduct was extreme and outrageous, and,

Third, that Richard Moore intended to inflict severe emotional distress, or knew that there was a high probability that his conduct would cause severe emotional distress; and,

Fourth, that Aaron Rents, Inc. knew or should have known of the conduct of Richard Moore and, despite said knowledge, failed to act in any way to protect Ashley Alford.

The Plaintiff further claims that the foregoing were the proximate cause of her suffering severe emotional distress.

Aaron Rents, Inc. denies that it did any of the things claimed by the Plaintiff and denies that any act or omission on its part was a proximate cause of the Plaintiff's claimed damages.



Under Count VIII – “Intentional Infliction of Emotional Distress” – the Plaintiff has the burden of proving each of the following propositions:

First, that Richard Moore acted or failed to act in one of the ways claimed by the Plaintiff as stated to you in these instructions;

Second, that Richard Moore’s conduct was extreme and outrageous, and,

Third, that Richard Moore intended to inflict severe emotional distress upon Ashley Alford, or knew that there was a high probability that his conduct would cause severe emotional distress upon Ashley Alford; and,

Fourth, that Aaron Rents, Inc. knew, or should have known of the extreme and outrageous conduct of Richard Moore and, despite said knowledge, failed to act in any way to protect Ashley Alford; and,

Fifth, that the conduct of Aaron Rents, Inc. was a proximate cause of the damages suffered by Plaintiff.

If you find from your consideration of all the evidence that each of these propositions has been proved, then your verdict should be for the Plaintiff. On the other hand, if you find from your consideration of all the evidence that any of these propositions has not been proved, then your verdict should be for Aaron Rents, Inc..

When I use the expression “proximate cause,” I mean a cause that, in the natural or ordinary course of events, produced the plaintiff’s injury. It need not be the only cause, nor the last or nearest cause. It is sufficient if it combines with another cause resulting in the damages.

When I say 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 on which he has the burden of proof is more probably true than not true.

If you decide for the plaintiff on the question of liability, you must then fix the amount of money which will reasonably and fairly compensate her for any of the following elements of damages proved by the evidence to have resulted from the wrongful conduct of Aaron Rents, Inc., taking into consideration the nature, extent and duration of the injury and the aggravation of any pre-existing ailment or condition:

- The pain and suffering experienced and reasonably certain to be experienced in the future as a proximate cause of the intentional infliction of emotional distress;
- The humiliation, indignity and vexation suffered by Ashley Alford as a proximate cause of the intentional infliction of emotional distress;
- The emotional distress experienced and reasonably certain to be experienced in the future as a proximate cause of the intentional infliction of emotional distress;
- The loss of a normal life experienced and reasonably certain to be experienced in the future as a proximate cause of the intentional infliction of emotional distress.

Whether any of these elements of damages has been proved by the evidence for you to determine.

When I use the expression “loss of a normal life,” I mean the temporary or permanent diminished ability to enjoy life. This includes a person’s inability to pursue the pleasurable aspects of life.

Richard Moore was the agent of the defendant, Aaron Rents, Inc., at and before the time of the events set forth in these instructions. Therefore, any act or omission of the agent at that time was in law the act or omission of the defendant, Aaron Rents, Inc. if he was acting in the scope of his employment.

One of the questions for you to determine is whether or not Richard Moore or any other Aarons' employee was acting within the scope of his/her employment.

An employee is acting within the scope of his/her employment if each of the following is shown by the evidence:

- (a) The employee's conduct is of a kind he/she is employed to perform or reasonably could be said to have been contemplated as part of his/her employment; and
- (b) The employee's conduct occurs substantially within the authorized time and space limits of his/her employment; and
- (c) The employee's conduct is motivated, at least in part, by a purpose to serve the employer.

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Count XI-Title VII Retaliation – Aaron Rents Inc. Defendant

Plaintiff claims that she was retaliated against by Aaron Rents, Inc. Plaintiff claims her work environment was changed to give her lesser responsibilities and/or that she was not promoted to the position of a Sales Manager because she filed a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”). To succeed on this claim, Plaintiff must prove by a preponderance of the evidence that Aaron Rents, Inc. lessened her job responsibilities and/or did not promote her to the position of Sales Manager because she filed an EEOC charge of discrimination. To determine that Aaron Rents lessened Plaintiff’s job responsibilities and/or that she was not promoted to the position of Sales Manager because she filed a charge of discrimination with the EEOC, you must find that either Aaron Rents lessened Plaintiff’s job responsibilities or that a Sales Manager position was available and that Aaron Rents, Inc. would have promoted Plaintiff to the position of Sales Manager if she had not filed a charge of discrimination with the EEOC but everything else had been the same.

If you find that Plaintiff has proved either of these allegations of retaliation by a preponderance of the evidence, then you must find for Plaintiff. However, if you find that Plaintiff did not prove either of these allegations of retaliation by a preponderance of the evidence, then you must find for Aaron Rents, Inc.



In deciding Plaintiff's retaliation claim, you should not concern yourselves with whether Aaron Rents, Inc.'s actions were wise, reasonable, or fair. Rather, your concern is only whether Plaintiff has proved that Aaron Rents, Inc. lessened her job responsibilities and/or failed to promote her in retaliation for filing a charge of discrimination with the EEOC.

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.

When I use the expression “loss of a normal life,” I mean the temporary or permanent diminished ability to enjoy life. This includes a person’s inability to pursue the pleasurable aspects of life.

You may award compensatory damages only for injuries that Plaintiff has proved by a preponderance of the evidence were caused by Aaron Rents, Inc.'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. The court will calculate and determine any damages for past or future lost wages and benefits. You should consider the following types of compensatory damages, and no others:

1. The physical and mental/emotional pain and suffering and loss of a normal life that Plaintiff has experienced and is reasonably certain to experience in the future. No evidence of the dollar value of physical or mental/emotional pain and suffering or loss of a normal life has been or needs to be introduced. There is no exact standard for setting the damages to be awarded on account of pain and suffering. You are to determine an amount that will fairly compensate Plaintiff for the injury she has sustained.

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Count XII-Title VII-Sexual Harassment –

Aaron Rents Inc. Defendant

Under Count XII, Plaintiff Ashley Alford claims that she was sexually harassed by Defendant Richard Moore. To succeed on this claim, Plaintiff must prove six things by a preponderance of the evidence.

1. Richard Moore was Ashley Alford's supervisor. A supervisor is someone who can affect the conditions of Ashley Alford's employment. By this I mean someone who has the power to hire, fire, demote, promote, transfer or discipline Ashley Alford.

2. Ashley Alford was subjected to harassment;

3. The conduct was unwelcome;

4. The conduct occurred because Ashley Alford was a female;

5. The conduct was sufficiently severe or pervasive that a reasonable person in Ashley Alford's position would find Ashley Alford's work environment to be hostile or abusive;

6. At the time the conduct occurred, Ashley Alford believed that the conduct made her work environment hostile or abusive.

If you find that Plaintiff did not prove by a preponderance of the evidence each of the things required of her, then you must find for Aaron Rents, Inc. If, on the other hand, Plaintiff has proved each of these things, you must go on to consider whether Aaron Rents, Inc. has proved two things by a preponderance of the evidence:

1. Aaron Rents, Inc. exercised reasonable care to prevent and correct any harassing conduct in the workplace.

2. Ashley Alford unreasonably failed to take advantage of opportunities provided by Aaron Rents, Inc. to prevent or correct harassment, or otherwise avoid harm.

If you find that Aaron Rents, Inc. has proved these two things by a preponderance of the evidence, your verdict should be for Aaron Rents, Inc. If you find that Aaron Rents, Inc. has not proved both of these things, your verdict should be for Plaintiff.

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.

In deciding Ashley Alford's claim, you should not concern yourselves with whether Richard Moore's actions were wise, reasonable, or fair. Rather, your concern is only whether Ashley Alford has proved that Richard Moore sexually harassed her because she was a woman.



You may award compensatory damages only for injuries that Ashley Alford has proved by a preponderance of the evidence were caused by Aaron Rents, Inc.'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. The court will calculate and determine any damages for past or future lost wages and benefits. You should consider the following types of compensatory damages, and no others:

1. The physical and mental/emotional pain and suffering and loss of a normal life that Ashley Alford has experienced, and is reasonably certain to experience in the future. No evidence of the dollar value of physical, or mental/emotional pain and suffering or loss of a normal life has been or needs to be introduced. There is no exact standard for setting the damages to be awarded on account of pain and suffering. You are to determine an amount that will fairly compensate Plaintiff for the injury she has sustained.

If you find that Ashley Alford has proved her sexual harassment claim against Aaron Rents, Inc., then you must determine what amount of damages, if any, she is entitled to recover. Ashley Alford must prove her damages by a preponderance of the evidence.

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