

UNITED STATES DISTRICT COURT
IN AND FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

JACQUELINE M. MONTAGNE,

Plaintiff,

vs.

STATE OF IOWA DEPARTMENT OF
PUBLIC SAFETY,

Defendant.

No. 4-98-CV-20694

PRELIMINARY JURY INSTRUCTIONS

TABLE OF CONTENTS

1. Admonition
2. Statement of the Case
3. Jurors' Impartiality; Equal Standing Before the Law
4. Order of Trial
5. Credibility
6. Evidence
7. Stipulated Facts
8. Preponderance of the Evidence
9. Depositions, Interrogatories, and Admissions
10. Unlawful Employment Practice
11. Elements of Claims
12. Court's Questions
13. Note Taking
14. Jurors' Impartiality

INSTRUCTION NO. _____

Members of the jury, we are about to begin the trial of the case about which you have heard some details during the process of jury selection. There are certain instructions you should have in order to understand what will be presented before you, and how you should conduct yourselves during the trial. Later I will give you further instructions. All instructions - both those I give you now, and any I give you later - are equally binding on you and must be followed. Do not single out some instructions and ignore others, because all the instructions are important. In considering these instructions, you will attach no importance or significance whatsoever to the order in which they are given.

By your verdict you will decide disputed issues of fact. I will decide all questions of law that arise during the trial, and before you retire to deliberate at the close of the case, I will again instruct you on the law that you must follow and apply in deciding your verdict.

To decide the facts of this case, you should give careful attention to the testimony and evidence presented. I will instruct you concerning the manner in which you should determine the credibility, or "believability," of each witness and the weight to be given to testimony. During the trial you should keep an open mind, and should not form or express any opinion about the case one way or the other, until you have heard all the testimony and evidence, the closing arguments of the lawyers, and my instructions to you on the applicable law.

You must not discuss the case in any manner among yourselves or with anyone else, nor should you permit anyone to discuss it in your presence. You should avoid reading newspaper articles that might be published about the case, and should also avoid seeing or hearing any television or radio comments about the trial. Do not do any research or make any investigation about the case on your own. Do not make up your mind during the trial about what the verdict should be. Keep an open mind until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence.

The attorneys have a duty to object when they believe evidence is not admissible. You should not show prejudice against an attorney or client because the attorney has made objections. You should not think that due to any ruling or other comment I may make or question I ask of anyone, that I have any opinions on the merits of the case favoring one side or the other. If I sustain an objection to a question that goes unanswered by the witness, you should not draw any inferences or conclusions from the question itself.

During the trial it may be necessary for me to talk with the lawyers out of your hearing, either by having a bench conference here while you are present in the courtroom, or by calling recess. Please understand that while you are waiting, we are working. The purpose of these conferences is to decide how certain evidence is to be treated under the rules of evidence, and to avoid confusion and error. We will, of course, do what we can to keep the number and length of these conferences to a minimum.

INSTRUCTION NO. ____

Members of the jury:

This is a civil case brought by the plaintiff, Jacqueline M. Montagne, against the defendant, the State of Iowa Department of Public Safety. During the time period relevant in this case, the defendant employed the plaintiff as a gaming enforcement officer at an excursion gambling boat in Council Bluffs, Iowa.

Plaintiff alleges that the defendant violated federal law by treating her differently -- because of her sex -- than it treated her co-employees in terms of discipline and failure to transfer or promote her. Plaintiff also alleges that after she complained about sex discrimination, Defendant retaliated against her because of her complaint by refusing to transfer or promote her. Plaintiff asserts that Defendant's unlawful actions caused her damages.

Defendant denies that it treated Plaintiff differently than it treated her co-employees. Defendant also denies that it retaliated against Plaintiff because of her complaints about sex discrimination. Defendant contends it had lawful reasons for making the personnel decisions it made concerning Plaintiff. Finally, Defendant denies that it caused damages to Plaintiff by unlawful acts.

This summary is given to you by the Court and is not to be considered as evidence in this case. Determine the questions submitted to you from the evidence and apply the law that I will give you.

INSTRUCTION NO. ____

You have been chosen and sworn as jurors in this case to try the issues of fact presented by the parties, without bias or prejudice as to any party. Do not be governed by sympathy, prejudice, or public opinion.

The parties to this lawsuit are individuals and a government department. The fact that a party is a government department should not affect your decision. All persons, including departments, are equal before the law; and whether they are large or small, departments are entitled to the same fair and conscientious consideration by you as any other party. All the parties and the public expect that, regardless of the consequences, you will carefully and impartially consider all the evidence in the case, follow the law as stated by the Court, and reach a just verdict.

When a government department 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 department may bind it by the acts and declarations made while acting within the scope of the authority delegated to the employee, or within the scope of the employee's or agent's duties as an employee or agent of the department.

INSTRUCTION NO. ____

The trial will proceed in the following order:

After I finish these preliminary instructions, the lawyers will make opening statements. An opening statement is not evidence, but is simply a summary of what the lawyers expect the evidence to be. The plaintiff will then present evidence, and counsel for the defendant may cross-examine. Following the plaintiff's case, the defendant may present evidence, and the plaintiff's counsel may cross-examine. Following the defendant's case, the plaintiff may present additional evidence.

After the parties have presented their cases and the evidence is concluded, I will further instruct you on the law that you are to apply in reaching your verdict.

After presentation of the evidence is completed, and I have further instructed you on the law, the lawyers will make closing arguments to summarize and interpret the evidence for you. As with opening statements, closing arguments are not evidence.

You will then retire to deliberate on your verdict.

INSTRUCTION NO. ____

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence; the opportunity the witness had to see or hear the things testified about; the witness's memory; any motives that witness may have for testifying a certain way; the age and manner of the witness while testifying; whether that witness said something different at an earlier time; the general reasonableness and probability or improbability of the testimony; and the extent to which the testimony is consistent with any evidence that you believe.

In deciding whether or not to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You should consider whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood. This may depend on whether the contradiction has to do with an important fact or only a small detail.

If you believe from the evidence that a witness previously made a statement that is inconsistent with the witness's testimony at this trial, the only purpose for which you may consider the previous statement is for its bearing on the witness's credibility. It is not evidence that what the witness previously said was true. However, if you believe from the evidence that a witness who is a party made a previous statement that is inconsistent with the party's testimony at this trial, you may consider the previous statement both for its bearing on the party's credibility and as evidence that what the party previously said was true.

INSTRUCTION NO. ____

You shall base your verdict only on the evidence and these and other instructions that I give you during the trial. Evidence is:

1. Testimony in person or testimony previously given, which includes depositions.
2. Exhibits received by the Court.
3. Stipulations that are agreements between the parties.
4. Any other matter admitted into evidence.

Evidence may be direct or circumstantial. You should not be concerned with these terms since the law makes no distinction between the weight to be given to direct and circumstantial evidence. The weight to be given any evidence is for you to decide. The following are not evidence:

1. Statements, arguments, comments by the lawyers.
2. Objections and rulings on objections.
3. Testimony I tell you to disregard.
4. Anything you see or hear about this case outside the courtroom.

INSTRUCTION NO. ____

Plaintiff and Defendant have agreed to certain facts and have reduced these facts to a written agreement or stipulation. Any counsel may, throughout the trial, read to you all or a portion of the stipulated facts. You should treat these stipulated facts as having been proved.

INSTRUCTION NO. ____

Unless otherwise instructed, your verdict depends on whether you find certain facts have been proved by a preponderance of the evidence. To prove something by the preponderance of the evidence is to prove that it is more likely true than not true. It is determined by considering all of the evidence, and deciding which evidence is more believable. If, on any issue in the case, the evidence is equally balanced, you cannot find that the issue has been proved.

The preponderance of the evidence is not determined by the greater number of witnesses or exhibits a party has presented.

You may have heard the term, “proof beyond a reasonable doubt.” That is a stricter standard, which applies only in criminal cases. It does not apply in civil cases such as this.

INSTRUCTION NO. ____

During the trial of this case, certain deposition testimony may be read into evidence. A deposition is taken before trial. It consists of questions asked the witness and the witness's answers given under oath. Deposition testimony is preserved in writing. You should consider deposition testimony the same as you would testimony given in court.

During this trial, you may hear the word "interrogatory." An interrogatory is a written question asked by one party of another, who must answer it under oath in writing. Consider interrogatories and the answers to them as if the questions had been asked and answered here in court.

You may hear evidence claiming that Plaintiff and/or management-level employees of Defendant made statements before this trial while under oath. These statements are called admissions. If you find an admission was made, you may consider it as if made during this trial. Decide whether to consider the admission for any purpose, and what weight to give it.

INSTRUCTION NO. _____

You are hereby instructed that it is an unlawful employment practice for an employer to fail to promote, or to discipline, or to otherwise discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.

It is an unlawful employment practice for an employer to fail to promote, or to discipline, or to otherwise discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment, if an employer does so to placate the prejudice pervasive in the labor force.

It is an unlawful employment practice for an employer to retaliate against an employee because she has engaged in a "protected activity." Protected activity includes making informal complaints of unlawful discrimination in the workplace, and filing or announcing the intent to file a formal complaint of discrimination with a governmental agency.

INSTRUCTION NO. _____

To help you follow the evidence, here is a brief summary of the elements of Plaintiff's two claims.

To win her claim of **sex discrimination**, Plaintiff must prove both of the following two essential elements:

- (1) Defendant treated Plaintiff differently than her co-employees in the terms and conditions of her employment; and
- (2) Plaintiff's sex was a motivating factor for that different treatment.

If Plaintiff has failed to prove either of the above elements by the preponderance of the evidence, your verdict must be for Defendant on this claim.

To win her claim of **retaliation**, Plaintiff must prove all the following three essential elements:

- (1) Plaintiff complained about sex discrimination;
- (2) After Plaintiff complained about sex discrimination, Defendant took adverse employment action against Plaintiff; and
- (3) Plaintiff's complaint of sex discrimination was a motivating factor in Defendant's decision to take adverse employment action against Plaintiff.

If Plaintiff has failed to prove any of the above elements by the preponderance of the evidence, your verdict must be for Defendant on this claim.

An adverse employment action is one that has some materially adverse impact on a plaintiff's employment terms or conditions. The action must be a significant disadvantage and not merely a change in duties or working conditions.

This is a preliminary outline of Plaintiff's claims. At the end of the trial, I will give you final instructions that explain these claims in greater detail.

INSTRUCTION NO. _____

During the course of the trial, I occasionally may ask questions of a witness or counsel. Do not assume that I hold any opinion on the matters to which my questions may relate. Neither in these instructions nor in any ruling, action, or remark that I have made during this trial have I intended to give any opinion or suggestion as to what the facts are or what your verdict should be.

INSTRUCTION NO. ____

During this trial I will permit you to take notes, so a word of caution is in order. There is a tendency to attach undue importance to matters that one has written down. Some testimony that is considered unimportant at the time presented, and thus not written down, takes on greater importance later in the trial, in light of all the evidence presented. Your notes are only a tool to aid your own individual memory. You should not compare your notes with the notes of other jurors in determining the content of any testimony, or in evaluating the importance of any evidence. Your notes are not evidence, and will not be a complete outline of the proceedings. Above all, your memory should be your greatest asset when it comes time to deliberate and render a decision in this case.

At the end of the trial you must make your decision based on what you recall of the evidence. You will not have a written transcript to consult, and the court reporter cannot read back testimony. You must pay close attention to the testimony as it is given.

INSTRUCTION NO. ____

You will not be required to remain together while court is in recess. It is important that you obey the following instructions with reference to court recesses:

First, do not discuss the case either among yourselves or with anyone else during the course of the trial. In fairness to the parties to this lawsuit, you should keep an open mind throughout the trial. You should reach your conclusion only during your final deliberations after all evidence is in and you have heard the attorneys' summations, my instructions to you on the law, and an interchange of views with other jury members.

Second, do not permit anyone to discuss the case in your presence. If anyone does so despite your telling them not to, report that fact to the Court as soon as you are able. If you feel it necessary to bring a matter to the attention of the Court, do not discuss this matter with other jurors.

Third, please do not speak, in or out of the courtroom, with any of the parties, their attorneys, or any witness, about the case, or at all, even to pass the time of day. In no other way can all parties be assured of the absolute impartiality they are entitled to expect from you as jurors.

INSTRUCTION NO. ____
USE OF INSTRUCTIONS

Members of the jury, the instructions I gave you at the beginning of the trial and during the trial remain in effect. I now give you some additional instructions.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all the instructions are important. This is true even though some of those I gave you at the beginning of the trial are not repeated here.

In considering these instructions, you will attach no importance or significance whatsoever to the order in which they are given. Furthermore, neither in these instructions nor in any ruling, action, or remark that I have made during the course of this trial have I intended to give any opinion or suggestion as to what your verdict should be.

INSTRUCTION NO. ____
EMPLOYMENT DECISION

You may not return a verdict for Plaintiff just because you might disagree with Defendant's discipline or promotion decisions or believe them to be harsh or unreasonable.

The law entitles the defendant to make personnel decisions regarding its employees, including disciplining employees for work-related violations, as long as those decisions are not based on sex discrimination, retaliation for a protected activity, or any other unlawful motive.

Defendant contends any discipline or promotion decision concerning Plaintiff was based on legitimate, nondiscriminatory reasons and was unrelated to her gender and/or her complaints about sex discrimination. In considering Plaintiff's claims, you must consider the reasons given by Defendant for its actions, and determine whether Plaintiff has proved that the reasons given were a pretext to hide Defendant's unlawful conduct.

In deciding whether the reasons given were a pretext for gender discrimination and retaliation, you must decide the motivation, or the intent, of the defendant's management personnel who made the employment decisions. To prevail, the plaintiff must show that those personnel were motivated in their decision(s) by intentional gender discrimination.

INSTRUCTION NO. ____
DISCRIMINATION CLAIM - ESSENTIAL ELEMENTS

Your verdict must be for Plaintiff on her sex discrimination claim if all the following elements have been proved by the preponderance of the evidence:

(1) Defendant treated Plaintiff differently than her co-employees in the terms and conditions of her employment, specifically in terms of discipline or in the failure to promote her; and

(2) Plaintiff's sex was a motivating factor for that treatment.

If either of the above elements has not been proved by the preponderance of the evidence, your verdict must be for the defendant and you need not proceed further in considering this claim.

! Plaintiff must show that Defendant intentionally discriminated against her. Plaintiff, however, is not required to produce direct evidence of intentional discrimination. Intentional discrimination may be inferred from the existence of other facts.

! The mere fact that Plaintiff is a woman and was disciplined or not promoted is insufficient, in and of itself, to establish Plaintiff's claim under the law.

! As used in these instructions, sex or gender was a "motivating factor" if the plaintiff's sex or gender played a part or role in the defendant's decisions to discipline or fail to promote the plaintiff. However, Plaintiff's gender need not have been the only reason for these decisions by Defendant.

! If you find in favor of Plaintiff under this instruction, you must answer the following question on the verdict form: Has it been proved by the preponderance of the evidence that Defendant would have taken the same actions concerning Plaintiff regardless of her sex? You need not be concerned with the effect of your determination of whether Defendant would have taken the same actions concerning Plaintiff regardless of her sex; the effect of your determination on this question is for me to decide.

INSTRUCTION NO. ____
RETALIATION CLAIM - ESSENTIAL ELEMENTS

In considering the retaliation claim against Defendant, you are instructed that the law prohibits retaliation by an employer against an employee who has made a complaint about sex discrimination, including different treatment based on gender. Your verdict must be for Plaintiff and against Defendant on the retaliation claim if all the following numbered elements have been proved by a preponderance of the evidence:

- (1) Plaintiff complained about sex discrimination;
- (2) After Plaintiff complained about sex discrimination, Defendant took adverse employment action against Plaintiff, specifically in failing to promote her; and
- (3) Plaintiff's complaint of sex discrimination was a motivating factor in Defendant's decision to take adverse employment action against Plaintiff.

Your verdict must be for Defendant if any of the above elements have not been proved by a preponderance of the evidence.

! Regarding element (3), Plaintiff is not required to produce direct evidence of Defendant's retaliatory motive. A defendant seldom admits having a retaliatory motive, and the existence of a retaliatory motive may be inferred from the existence of other facts.

! If you find in favor of Plaintiff under this instruction, you must answer the following question on the verdict form: Has it been proved by the preponderance of the evidence that Defendant would have taken the same adverse employment actions concerning Plaintiff regardless of her complaint about sex discrimination? You need not be concerned with the effect of your determination of whether Defendant would have taken the same actions concerning Plaintiff regardless of her complaint about sex discrimination; the effect of your determination on this question is for me to decide.

INSTRUCTION NO. ____
NO QUOTIENT VERDICT OR DUPLICATE DAMAGES

In arriving at an item of damage, you cannot arrive at a figure by taking down the estimate of each juror as to an item of damage and agreeing in advance that the average of those estimates should be your item of damage.

You should not interpret the fact that I have given instructions about damages as an indication in any way that I believe that plaintiff should, or should not, win this case.

If you determine that any damages should be awarded, you must enter separate amounts for each type of damages you find pursuant to the instructions, and must not award duplicate damages in more than one category or claim. Plaintiff has made two different claims. You must consider each claim separately, and award the damages she has proved for that claim.

INSTRUCTION NO. ____
DAMAGES

If, on the Special Verdict Form, you find in favor of Plaintiff on either her discrimination or retaliation claim, and you find it has not been proved by the preponderance of the evidence that Defendant would have taken the same actions concerning Plaintiff regardless of her sex or her complaint about sex discrimination, then you must award Plaintiff such amount as you find by the preponderance of the evidence will fairly and justly compensate Plaintiff for any damages you find Plaintiff sustained as a direct result of Defendant's discrimination against Plaintiff.

You must determine the amount of any wages and fringe benefits you find Plaintiff would have earned in her employment with Defendant if she had been promoted, from the date she would have been promoted through the date of your verdict minus the amount of earnings and benefits from other employment received by plaintiff during that time.

You may award Plaintiff compensatory damages for past and future emotional pain, suffering, inconvenience, and mental anguish, if you find these were caused by Defendant's illegal acts. You may award compensatory damages only for injuries that Plaintiff proves were caused by Defendant's wrongful conduct. The damages you award must be fair compensation, no more and no less.

No evidence of monetary value of such intangible things as pain and suffering has been, or need be, introduced into evidence. There is no exact standard for fixing the compensation to be awarded for these elements of damages. Any award you make should be fair in light of the evidence presented at trial.

An award of future damages necessarily requires that monetary payment be made now for a loss that Plaintiff will not actually suffer until some future date. If you should find that the Plaintiff is entitled to future damages, then you must determine the present value or worth, in dollars, of such future damages.

You must reduce any award of future damages to its present value by considering the interest that the Plaintiff could earn on the amount of the award if she made a relatively risk-free investment. The reason you must make this reduction is because an award of an

amount representing a future loss is more valuable to the Plaintiff if she receives it in the future, when she would have otherwise earned it. It is more valuable because the Plaintiff can earn interest on it for the period of time between the date of the award and the date she would have earned the money. Thus you should decrease the amount of any award for loss of future earnings by the amount of interest that the Plaintiff can earn on that amount in the future.

You are also instructed that Plaintiff has a duty under the law to “mitigate” her damages – that is, to exercise reasonable diligence under the circumstances to minimize her damages. Therefore, if you find by the preponderance of the evidence that Plaintiff failed to seek out or take advantage of an opportunity that was reasonably available to her, you must reduce her damages by the amount she reasonably could have avoided if she had sought out or taken advantage of such an opportunity.

In determining the amount of any damages that you decide to award, you should be guided by dispassionate common sense. You must use sound discretion in fixing an award of damages, drawing reasonable inferences from the facts in evidence. You may not award damages based upon sympathy, speculation, punishment, or guess work. On the other hand, the law does not require that the Plaintiff prove the amount of her losses with mathematical precision, but only with as much definiteness and accuracy as circumstances permit.

INSTRUCTION NO. ____
NOMINAL DAMAGES

If you find in Plaintiff's favor on either her discrimination or retaliation claim, and you find it has not been proved by the preponderance of the evidence that Defendant would have taken the same actions concerning Plaintiff regardless of her sex or her complaint about sex discrimination, but you find that Plaintiff's damages have no monetary value, then you must return a verdict for Plaintiff in the nominal amount of One Dollar (\$1.00) on that claim in the space provided on the Special Verdict Form.

INSTRUCTION NO. ____
JURORS' DUTIES

I am giving you a verdict form. Once you have finished responding to the issues in the verdict form, the form should be signed by the person you have selected to serve as presiding juror.

Your response to each of the special interrogatories must represent the considered judgment of each juror. Your answers 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. An inconclusive trial is always undesirable. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with the other 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 the other jurors or for the mere purpose of returning a verdict.

You are to follow the instructions now given you in your deliberations. You are not to be concerned with the wisdom of any rule of law. Regardless of your opinion as to what the law ought to be, it would be a violation of your sworn duty to base a verdict upon any other view of law than that given in the instruction of the Court.

INSTRUCTION NO. ____
DUTY TO DELIBERATE

Your first duty upon retiring to the jury room for your deliberations is to elect one of your members to act as Presiding Juror. The person so elected is responsible for the orderly, proper, and free discussion of the issues by any juror who wishes to express his or her views. He or she will supervise the balloting and sign the form or forms of verdict that are in accord with your decision and will also sign any written inquiries addressed to the Court. Requests regarding instructions are not encouraged. Questions regarding the law are normally fully covered in the instructions, and the jury is encouraged to examine them very carefully before making any further requests of the Court. If you need to communicate with me during your deliberations, you may send to me -- through the Court Security Officer - a note signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone -- including me -- how your votes stand numerically.

The attitude of jurors at the outset of their deliberations is important. It is seldom helpful for a juror, upon entering a jury room, to announce an emphatic opinion in a case or determination to stand for a certain verdict. When a juror does that at the outset, individual pride may become involved and the juror may later hesitate to recede from an announced position even when it is incorrect. You are not partisans. You are judges -- judges of the facts. Your sole interest is to ascertain the truth.

Dated at ____ a.m./p.m. on this ____ day of September, 2000.

CELESTE F. BREMER
UNITED STATES MAGISTRATE JUDGE

\$ _____ (stating the amount, if any)

b. We find Plaintiff's future emotional distress damages to be:

\$ _____ (stating the amount, if any)

4. Would the Plaintiff have been hired as a special agent, but for Defendant's discriminatory actions, on any or all of the following dates? (Mark an "X" on the appropriate space):

June of 1998	June of 1999	October of 1999
Yes__ No__	Yes__ No__	Yes__ No__

Note: Answer question No. 4a if, and only if, you marked "yes" under any of the dates above.

a. We find the amount of any wages and fringe benefits Plaintiff would have earned in her employment with Defendant if she had been promoted, from the date she would have been promoted through the date of the verdict, minus the amount of earnings and benefits from other employment during that time, to be:

\$ _____ (stating the amount, if any)

5. Or, if you find in question Nos. 3 and 4 above that Plaintiff's damages do not have a monetary value, then write in the nominal amount of One Dollar (\$1.00) below:

\$ _____ (stating \$1.00)

B. VERDICT – RETALIATION CLAIM

Note: Complete the following paragraph by writing in the name required by your verdict.

1. On the retaliation claim of Plaintiff Jacqueline Montagne, as submitted in Instruction No. 4, we find in favor of:

(Plaintiff Jacqueline Montagne) or _____
(Defendant Iowa Department of Public Safety)

Note: Answer question No. 2 if, and only if, the above finding is in favor of Plaintiff. If you found above in favor of Defendant, answer no further questions and have your Presiding Juror sign and date this form because you have completed your deliberations.

PRESIDING JUROR

Dated this _____ day of September, 2000.