

VERDICT FORM – STANLEY MCCALLUM

Racial Hostile Work Environment Claim

1. We, the jury, find as follows on plaintiff Stanley McCallum's racial hostile work environment claim against Caterpillar as defined at pages 16-18 of these instructions:

(Place an "X" on the appropriate line)

For Stanley McCallum _____

For Caterpillar Inc. _____ **X** _____

If you answer "For Stanley McCallum," proceed to numbers 2 and 3. If you answer "for Caterpillar Inc.," skip numbers 2-7.

Employer Liability For Co-Worker Conduct

2. We, the jury, find as follows on the issue of employer liability for co-worker conduct as defined at pages 20-21 of these instructions:

(Place an "X" on the appropriate line)

For Stanley McCallum _____

For Caterpillar Inc. _____

Employer Liability For Supervisor Conduct

3. We, the jury, find as follows on the issue of employer liability for supervisor conduct as defined at pages 22-24 of these instructions:

(Place an "X" on the appropriate line)

For Stanley McCallum _____

For Caterpillar Inc. _____

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OCT 14 2004

FILED

OCT 12 2004

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

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If you answer "For Stanley McCallum" on one or both of numbers 2 or 3, proceed to numbers 4 and 5. If you answer, "for Caterpillar, Inc.," on both numbers 2 and 3, skip numbers 4-7.

Compensatory Damages

(To be answered *only* if you found for Stanley McCallum on one or both of numbers 2 and 3)

4. We, the jury, find compensatory damages as defined at pages 26-27 of these instructions for Stanley McCallum as follows:

(Fill in the amount or if none, write the word "none")

\$_____ Compensatory damages

Punitive Damages

(To be answered *only* if you found for Stanley McCallum on one or both of numbers 2 and 3)

5. Has Stanley McCallum proved by a preponderance of the evidence that a managerial employee of Caterpillar acted with malice or reckless indifference to his right not to be harassed based on race in the workplace as defined at page 28 of these instructions?

(Place an "X" on the appropriate line)

_____ Yes
_____ No

If you answer "Yes" to number 5, proceed to answer number 6. If you answer "No" to number 5, skip numbers 6 and 7.

6. Has Caterpillar proved by a preponderance of the evidence that it made a good faith effort to prevent and correct racial harassment in the workplace as defined at pages 28-29 of these instructions?

(Place an "X" on the appropriate line)

_____ Yes

_____ No

If you answer "Yes" to number 6, skip number 7. If you answer "No" to number 6, proceed to number 7.

7. We, the jury, find punitive damages as defined at pages 28-29 of these instructions for Stanley McCallum as follows:

(Fill in the amount or if none, write the word "none")

\$ _____ Punitive damages

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Foreperson

Shawn Drape

Barbara Amelio

John Carter

W. J. E.

Marjorie Kalfut

Nonna Rae Muszalko

Grete Kastholm

Date: 10/12/04

VERDICT FORM – GEORGE ERVINS

Racial Hostile Work Environment Claim

1. We, the jury, find as follows on plaintiff George Ervins' racial hostile work environment claim against Caterpillar as defined at pages 16-18 of these instructions:

(Place an "X" on the appropriate line)

For George Ervins _____

For Caterpillar Inc. _____X_____

If you answer "For George Ervins," proceed to numbers 2 and 3. If you answer "for Caterpillar Inc.," skip numbers 2-7.

Employer Liability For Co-Worker Conduct

2. We, the jury, find as follows on the issue of employer liability for co-worker conduct as defined at pages 20-21 of these instructions:

(Place an "X" on the appropriate line)

For George Ervins _____

For Caterpillar Inc. _____

Employer Liability For Supervisor Conduct

3. We, the jury, find as follows on the issue of employer liability for supervisor conduct as defined at pages 22-24 of these instructions:

(Place an "X" on the appropriate line)

For George Ervins _____

For Caterpillar Inc. _____

If you answer "For George Ervins" on one or both of numbers 2 or 3, proceed to numbers 4 and 5. If you answer, "for Caterpillar Inc.," on both numbers 2 and 3, skip numbers 4-7.

Compensatory Damages

(To be answered *only* if you found for George Ervins on one or both of numbers 2 and 3)

4. We, the jury, find compensatory damages as defined at pages 26-27 of these instructions for George Ervins as follows:

(Fill in the amount or if none, write the word "none")

\$_____ Compensatory damages

Punitive Damages

(To be answered *only* if you found for George Ervins on one or both of numbers 2 and 3)

5. Has George Ervins proved by a preponderance of the evidence that a managerial employee of Caterpillar acted with malice or reckless indifference to his right not to be harassed based on race in the workplace as defined at page 28 of these instructions?

(Place an "X" on the appropriate line)

_____ Yes
_____ No

If you answer "Yes" to number 5, proceed to answer number 6. If you answer "No" to number 5, skip numbers 6 and 7.

6. Has Caterpillar proved by a preponderance of the evidence that it made a good faith effort to prevent and correct racial harassment in the workplace as defined at pages 28-29 of these instructions?

(Place an "X" on the appropriate line)

_____ Yes

_____ No

If you answer "Yes" to number 6, skip number 7. If you answer "No" to number 6, proceed to number 7.

7. We, the jury, find punitive damages as defined at pages 28-29 of these instructions for George Ervins as follows:

(Fill in an amount or if none, write the word "none")

\$_____ Punitive damages

J. Edgar
Foreperson

Shawn Drape

Barbara Amelio

John Carter

Marjorie Kolbert

Ronna Rae Merzjako

Julie Kastholm

Date: 10/12/04

VERDICT FORM – RICKEY MCNEAL

Racial Hostile Work Environment Claim

1. We, the jury, find as follows on plaintiff Rickey McNeal's racial hostile work environment claim against Caterpillar as defined at pages 16-18 of these instructions:

(Place an "X" on the appropriate line)

For Rickey McNeal _____

For Caterpillar Inc. X

If you answer "For Rickey McNeal," proceed to numbers 2 and 3. If you answer "for Caterpillar Inc.," skip numbers 2-7.

Employer Liability For Co-Worker Conduct

2. We, the jury, find as follows on the issue of employer liability for co-worker conduct as defined at pages 20-21 of these instructions:

(Place an "X" on the appropriate line)

For Rickey McNeal _____

For Caterpillar Inc. _____

Employer Liability For Supervisor Conduct

3. We, the jury, find as follows on the issue of employer liability for supervisor conduct as defined at pages 22-24 of these instructions:

(Place an "X" on the appropriate line)

For Rickey McNeal _____

For Caterpillar Inc. _____

If you answer "For Rickey McNeal" on one or both of numbers 2 or 3, proceed to numbers 4 and 5. If you answer, "for Caterpillar Inc.," on both numbers 2 and 3, skip numbers 4-7.

Compensatory Damages

(To be answered *only* if you found for Rickey McNeal on one or both of numbers 2 and 3)

4. We, the jury, find compensatory damages as defined at pages 26-27 of these instructions for Rickey McNeal as follows:

(Fill in the amount or if none, write the word "none")

\$_____ Compensatory damages

Punitive Damages

(To be answered *only* if you found for Rickey McNeal on one or both of numbers 2 and 3)

5. Has Rickey McNeal proved by a preponderance of the evidence that a managerial employee of Caterpillar acted with malice or reckless indifference to his right not to be harassed based on race in the workplace as defined at page 28 of these instructions?

(Place an "X" on the appropriate line)

_____ Yes

_____ No

If you answer "Yes" to number 5, proceed to answer number 6. If you answer "No" to number 5, skip numbers 6 and 7.

6. Has Caterpillar proved by a preponderance of the evidence that it made a good faith effort to prevent and correct racial harassment in the workplace as defined at pages 28-29 of these instructions?

(Place an "X" on the appropriate line)

_____ Yes

_____ No

If you answer "Yes" to number 6, skip number 7. If you answer "No" to number 6, proceed to number 7.

7. We, the jury, find punitive damages as defined at pages 28-29 of these instructions for Rickey McNeal as follows:

(Fill in the amount or if none, write the word "none")

\$_____ Punitive damages

J. Edgar
Foreperson

Marjorie Kelfert

Barbara Amelio

John Carter

Shawn Drape

W. J. G.

Nonna Rae Mizialko

Julie Kastholm

Date: 10/12/04