IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, et al.,	)	
Plaintiff,	)	
v.	)	
UNITED PARCEL SERVICE, INC., et al.,	)	
Defendants.	)	Civil Action No. 6:01-CV-109-C

COURT'S CHARGE TO THE JURY
AND JURY VERDICT

MEMBERS OF THE JURY:

Now that you have heard all of the evidence, it becomes my duty to give you the instructions of the Court concerning the law applicable to this case.

It is your duty as jurors to follow the law as I shall state it to you and to apply that law to the facts as you find them from the evidence in the case. You are not to single out one instruction alone as stating the law but must consider the instructions as a whole. Neither are you to be concerned with the wisdom of any rule of law stated by me.

Regardless of any opinion you may have as to what the law is or ought to be, it would be a violation of your sworn duty to base a verdict upon any view of the law other than that given in the instructions of the Court, just as it would also be a violation of your sworn duty, as judges of the facts, to base a verdict upon anything other than the evidence in the case.

In deciding the facts of this case, you must not be swayed by bias or prejudice or favor as to any party. Our system of law does not permit jurors to be governed by prejudice or sympathy

or public opinion. Both the parties and the public expect that you will carefully and impartially consider all of the evidence in the case, follow the law as stated by the Court, 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, and holding the same or similar stations in life. A corporation is entitled to the same fair trial at your hands as is a private individual. The law is no respecter of persons, and all persons, including corporations, stand equal before the law and are to be dealt with as equals in a court of justice.

When a corporation 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 corporation may bind the corporation by his acts and declarations made while acting within the scope of his authority delegated to him by the corporation, or within the scope of his duties as an employee of the corporation.

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 and the exhibits admitted in the record.

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 in the case. What the lawyers say is not binding upon you.

Generally speaking, there are two types of evidence which a jury may consider in properly finding the truth as to the facts in this case. One is direct evidence—such as testimony of an eyewitness. The other is indirect or circumstantial evidence—the proof of a chain of circumstances which points to the existence or nonexistence of certain facts. As a general rule, the law makes no distinction between direct and circumstantial evidence but simply requires that the jury find the facts from a preponderance of all the evidence, both direct and circumstantial.

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 common 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.

Now, I have said that you must consider all of the evidence. This does not mean, however, that you must 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 his testimony. In weighing the testimony of a witness, you should consider his relationship to the plaintiff or to the defendant; his interest, if any, in the outcome of the case; his manner of testifying; his opportunity to observe or acquire knowledge concerning the facts about which he testified; his candor, fairness, and intelligence; and the extent to which he has been supported or contradicted by other credible evidence. 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 as to the existence or non-existence of any fact. You may find that the testimony of a

smaller number of witnesses as to any fact is more credible than the testimony of a larger number of witnesses to the contrary.

During the trial of this case, certain testimony has been presented to you by way of summaries of depositions, consisting of sworn answers to questions asked of the witness in advance of trial by one or more of the attorneys for the parties to the case. The testimony of a witness who, for some reason, cannot be present to testify from the witness stand, is usually presented in the form of a deposition. Such testimony is entitled to the same consideration and is to be judged as to credibility, and weighed, and otherwise considered by the jury in the same way, insofar as possible, as if the witness had been present and had given from the witness stand the same testimony as given in the deposition.

The burden is on a party in a civil action such as this to prove every essential element of his claim by a "preponderance of the evidence." 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" merely means to prove that the claim is more likely so than not so.

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 introduced them. If the proof should fail to establish any essential element of a party's claim by a preponderance of the evidence, the jury should find for the opposing party as to that claim.

A witness may be "impeached" or discredited by contradictory evidence, by a showing that he testified falsely concerning a material matter, or by evidence that at some other time he said or did something, or failed to say or do something, which is inconsistent with the witness's present testimony.

If you believe that any witness has been so impeached, it is in your exclusive province to give the testimony of that witness such credibility or weight, if any, as you think it deserves.

In answering the questions which I will submit to you, answer "yes" or "no" unless otherwise instructed. A "yes" answer must be based on a preponderance of the evidence. If you do not find that a preponderance of the evidence supports a "yes" answer, then answer "no."

After I have completed reading this Charge to you and have reviewed the verdict form, instructions, and jury questions, counsel will have the opportunity to make their closing arguments.

Your verdict must represent a considered judgment of each juror. In order to return a verdict, it is necessary that all members of the jury agree thereto. You may not therefore enter into an agreement to be bound by a majority or any vote other than a unanimous one.

Remember at all times 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.

Upon retiring to the jury room, you should first select one of your number to act as your presiding officer who will preside over your deliberations and will be your spokesman here in Court. A verdict form has been prepared for your convenience. Your presiding officer will sign in the space provided below after you have reached your verdict.

If, during your deliberations, you wish to communicate with the Court, you should do so only in writing by a note handed to the Deputy Marshal and signed by the presiding officer.

After you have reached your verdict, you will return this charge together with your written answers to the questions that I will submit to you. Do not reveal your answers until such time as you are discharged, unless otherwise directed by me.

Date: May 7, 2003

SAM R. CUMMINGS
UNITED STATES DISTRICT JUDGE

This is an employment discrimination case brought by the Equal Employment Opportunity Commission ("EEOC") under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991. The EEOC has brought this lawsuit on behalf of a class of aggrieved individuals, including Ernest Garcia, Johnny Trevino, Jose Alvarado, Michael Sanchez, Michael Rojas, Darrell Warrick, and Christopher Phillips, who were employed by United Parcel Service at its San Angelo Center. Ernest Garcia has joined this lawsuit as Plaintiff Intervenor.

For purposes of the following questions and instructions, the EEOC and Intervenor Garcia will be referred to as "Plaintiff." Ernest Garcia, Johnny Trevino, Jose Alvarado, Michael Sanchez, Michael Rojas, Darrell Warrick, and Christopher Phillips will collectively be referred to as "Claimants." United Parcel Service will be referred to as "Defendant."

The Plaintiff contends that Defendant discriminated against Hispanic employees, including Ernest Garcia, Johnny Trevino, Jose Alvarado, Michael Sanchez, and Michael Rojas, because of their national origin and subjected the Hispanic employees to a hostile work environment and to disparate treatment because of their national origin. The Plaintiff contends that the Defendant discriminated against an African-American employee, Darrell Warrick, because of his race, by subjecting him to disparate treatment and terminating him. Defendant denies these claims.

Federal law prohibits an employer from intentionally discriminating against any person with respect to compensation, terms, conditions, or privileges of employment because of such person's national origin or race. Disparate treatment occurs when a protected group or class member is treated less favorably in terms and conditions of their employment than other similarly situated employees belonging to another race or ethnicity.

In order for Plaintiff to establish a claim of disparate treatment against the Defendant, Plaintiff must prove that Defendant intentionally discriminated against the Claimants; that is, the Claimants' national origin or race must be proved to have been a motivating factor in Defendant's conduct.

The mere fact that the Claimants are Hispanic or African-American is not sufficient, in and of itself, to establish Plaintiff's claim under the law.

In showing that the Claimants' national origin or race was a motivating factor, Plaintiff is not required to prove that the Claimants' national origin or race was the sole motivation or even the primary motivation for Defendant's actions. Plaintiff need only prove that national origin or race played a motivating part in Defendant's actions even though other factors may also have motivated Defendant.

The term "motivating factor" means a consideration that moved Defendant toward Defendant's decision.

In order to prevail on the claim of hostile work environment, Plaintiff must prove:

(1) that Hispanic employees, including Garcia, Alvarado, Sanchez, and Rojas, were members of a protected class;

(2) that Garcia, Alvarado, Sanchez, and Rojas were subjected to unwelcome harassment;

(3) that the harassment was based on the national origin of Hispanic employees, including Garcia, Alvarado, Sanchez, and Rojas;

(4) that the harassment affected a term, condition, or privilege of employment of the Hispanic employees, including Garcia, Alvarado, Sanchez, and Rojas; and

(5) that Defendant knew or should have known of the harassment and failed to take prompt remedial action.

With regard to the first element, you are instructed that Claimants Garcia, Alvarado, Sanchez, and Rojas were members of a protected class.

With regard to the second element, you are instructed that when determining whether the alleged harassment was "unwelcome," you must consider the totality of the circumstances in which the harassment occurred.

With regard to the third element, you are instructed that harassment based upon national origin means that because of the fact of the Claimants' national origin, the Claimants would not have been the object of harassment.

Under the fourth element, the harassment must be sufficiently severe or pervasive so as to alter the conditions of employment for Hispanics and or/African Americans and create an abusive working environment. Stated differently, the conduct must be so severe or pervasive that a reasonable person would find the environment hostile or abusive.

You are instructed that not only must the Claimants subjectively perceive that their work environment was hostile and abusive, but a hostile work environment claim requires the presence of a work environment that a reasonable person would find hostile or abusive. Whether an environment was hostile or abusive depends on the totality of the circumstances, focusing on factors such as the frequency of the conduct, the severity of the conduct, the degree to which the conduct was physically threatening or humiliating, and the degree to which the conduct unreasonably interfered with the Claimants' work performance. Therefore, you must evaluate the totality of the circumstances and determine whether the allegedly discriminatory behavior could objectively be classified as the kind of behavior that would be offensive to a reasonable person.

With regard to the fifth element, you are instructed that Defendant is subject to liability for an actionable hostile environment created by Defendant's manager(s) with immediate (or successively higher) authority over the Claimants irrespective of Defendant's actual knowledge of the conduct of the manager(s). But, if you find that Defendant took no adverse "tangible employment action" against a Claimant, Defendant may avoid liability by proving

(1) that Defendant exercised reasonable care to prevent and promptly correct the supervisor's harassing behavior; and

(2) that Claimant unreasonably failed to take advantage of any preventive or corrective opportunities provided by Defendant or to avoid harm otherwise.

"Tangible employment action" includes any significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities, or a decision causing a significant change in benefits.

Plaintiff alleges that Ernest Garcia, Jose Alvarado, Michael Rojas, and Michael Sanchez were constructively discharged from their positions. Defendant denies this claim.

To prove "constructive discharge," Plaintiff must show that Defendant made the work environment of Ernest Garcia, Jose Alvarado, Michael Rojas, and Michael Sanchez so intolerable that a reasonable person in their shoes would have felt compelled to resign. To be actionable, Plaintiff must demonstrate a greater severity or pervasiveness of harassment than that required to prove a hostile work environment claim.

Title 42, United States Code, Section 2000e-2, makes it an unlawful employment practice for an employer to discharge any individual because of such individual's race.

In order to prevail on this claim, Plaintiff must prove each of the following by a preponderance of the evidence:

First: that Darrell Warrick was an employee of the Defendant;

Second: that Darrell Warrick was discharged by the Defendant; and

Third: that Defendant intentionally discriminated against Darrell Warrick; that is, Darrell Warrick's race was a motivating factor in the Defendant's decision to discharge him.

The mere fact that Darrell Warrick is black and was terminated is not sufficient, in and of itself, to establish Plaintiff's claim.

Federal law provides that an unlawful employment practice is established when the complaining party demonstrates that national origin or race was a motivating factor for any employment practice, even though other factors also motivated the practice.

The employment relationship between the Claimants and Defendant could be lawfully terminated by either the Claimants or Defendant, provided that the reason is not unlawful. In other words, employers are permitted to make their own subjective business judgments, however misguided, mistaken, harsh, or unfair they may appear to some persons, so long as they do not make those decisions because of illegal discrimination. It is not your role to decide this case based upon your agreement or disagreement with Defendant's business decisions. The law does not entitle courts or juries simply to second-guess the business decisions of an employer like Defendant.

Plaintiff must prove either directly or indirectly that Defendant intended to discriminate against the Claimants.

Direct evidence is evidence of remarks or actions that, if believed, directly prove that the Claimants' national origin or race was a motivating factor in Defendant's employment decisions. Plaintiff, however, are not required to produce direct evidence of discrimination. Intentional discrimination may be inferred from the existence of other facts. Intent may be proved by direct or circumstantial evidence.

Stray remarks in the workplace do not constitute direct evidence of discrimination. This means that statements made by persons not involved in the decision to terminate Claimants' employment, or statements made by decisionmakers that are unrelated to those decisions, do not constitute direct evidence that Claimants' membership in a protected class was a factor in the decision to terminate Claimants from their employment.

For comments in the workplace to provide sufficient evidence of discrimination on the issue of discharge, they must be:

(1) related to the protected class of persons of which the Claimants are members;

(2) proximate in time to the discharge;

(3) made by an individual with authority over the employment decision at issue; and

(4) related to the employment decision at issue.

Comments that are vague and remote in time are insufficient to establish discrimination, but specific comments made over a lengthy period of time are sufficient.

If you find that the Plaintiff presented credible evidence that discriminatory intent was a motivating factor in the contested employment decisions, the burden then shifts to the employer to establish a legitimate, non-discriminatory reason for its decisions.

If you find the Defendant has stated a legitimate, non-discriminatory reason for its decisions, then for Plaintiff ultimately to prevail on its discrimination claims, it must prove, by a preponderance of the evidence, that the reasons stated by Defendant for making the employment decisions were not the true reasons and that the Claimants' national origin or race was the true reason. That is, the Plaintiff must prove, by a preponderance of the evidence, that Defendant intentionally discriminated against the Claimants because of their national origin or race. In other words, the Plaintiff must prove that the legitimate, non-discriminatory reasons offered by the Defendant were a pretext for discrimination.

Defendant's reasons would be a pretext for discrimination if those reasons were not the true reasons for the Defendant's conduct. In order for you to conclude the reasons given by the Defendant were a pretext for national origin or race discrimination, you must find the reasons given by Defendant were not true, and the real reason for Defendant's conduct was the Claimants' national origin or race.

In a case such as this, the Plaintiff must prove an intention by the Defendant to engage in national origin or race discrimination. Plaintiff, however, is not required to produce direct evidence of discrimination. Intentional discrimination may be inferred from the existence of other facts. Intent may be proved by direct or circumstantial evidence.

The Plaintiff alleges that Defendant retaliated against Ernest Garcia, Darrell Warrick, and Christopher Phillips because they complained of harassment and/or discrimination on the basis of race or national origin. Defendant denies this claim.

In order for the Plaintiff to prove its retaliation claim under Title VII, it must prove each of the following elements by a preponderance of the evidence:

(a) that Garcia, Warrick, and Phillips each engaged in an activity protected by Title VII;

(b) that the Defendant took an adverse employment action against Garcia, Warrick, and Phillips; and

(c) that a causal connection exists between that protected activity and the adverse employment action.

If you find that the Plaintiff has presented credible evidence proving each of these elements, the burden then shifts to the Defendant to state a legitimate, nondiscriminatory reason for its decision.

If you then find that the Defendant has stated a legitimate, nondiscriminatory reason for its decision, then, for Plaintiff to ultimately prevail on its claim, it must prove by a preponderance of the evidence that Garcia, Warrick, and Phillips would not have been retaliated against "but for" engaging in the protected activity.

An adverse employment decision is defined as acts such as hiring, granting leave, discharging, promotion, and compensating. The laws prohibiting retaliation are designed to address only these ultimate employment decisions, not to address every decision made by employers that arguably might have some tangential effect upon these ultimate employment decisions.

In order to prove a causal connection, the Plaintiff need not prove that protected activity was the sole factor motivating the Defendant's challenged decision in order to establish the causal link element of a prima facie case; however, Plaintiff does need to show that there was some relationship between the protected activity and the adverse action. In determining whether there is a causal relationship, you are not to consider the merits of Garcia's, Warrick's, and Phillips' prior complaints of discrimination but must simply be aware that the prior filing was made.

Title VII does not interfere with the Defendant's right to make any business decision that it chooses to make, so long as it does not make a decision for a retaliatory purpose.

The Defendant has the right to determine which factor or factors it will use to decide what discipline should be imposed for violations of the Defendant's orders, rules, regulations, and policies, so long as the factors it uses are not based on an employee's prior participation in a protected activity. It is not your role as jurors to second-guess the Defendant's business judgment, so long as the judgment is not based on Garcia's, Warrick's, and Phillips' prior participation in a protected activity. The fact that an employer's decision may seem harsh or could have been more lenient or was simply a bad decision is not sufficient for the Plaintiff to prevail in a Title VII case. The question before you is not whether the Defendant made wise decisions with respect to its treatment of Garcia, Warrick, and Phillips, nor is the question whether the Defendant treated Garcia, Warrick, and Phillips fairly. The question before you is whether the Defendant retaliated against Garcia, Warrick, and Phillips because of their prior participation in a protected activity.

If you find that Defendant is liable to the Claimants, then you must determine an amount that is fair compensation for Claimants' damages. These damages are called compensatory damages. The purpose of compensatory damages is to make the Claimants whole; that is, to compensate Claimants for damages suffered.

You may award compensatory damages only for Claimants' injuries that Plaintiff proves were proximately caused by Defendant's allegedly wrongful conduct. "Proximate cause" means that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using the degree of care required of him would have foreseen that the event, or some similar event, might reasonably result therefrom. There may be more than one proximate cause of an event.

Claimants are seeking lost wages and employment benefits. If you find for the Claimants, they are entitled to recover back pay in an amount equal to the difference, if any, between what the Claimants have actually earned or could have earned since leaving the employment with Defendant and what they would have been paid to this date had the Claimants remained employed by Defendant. In determining this number, do not include lost wages for any period of time in which a claimant was unable to work or voluntarily removed himself from the workplace.

A person who claims damages resulting from the wrongful act of another has a duty under the law to use reasonable diligence to mitigate; that is, to avoid or minimize those damages.

If you find that Defendant is liable and a Claimant has suffered damages, that Claimant may not recover for any item of damage which Claimant could have avoided through reasonable effort. If you find by a preponderance of the evidence that a Claimant unreasonably failed to take advantage of an opportunity to lessen his damages, you should deny that Claimant recovery for those damages which Claimant would have avoided had Claimant taken advantage of the opportunity.

You are the sole judge of whether a Claimant acted reasonably in avoiding or minimizing his damages. A Claimant may not sit idly by when presented with an opportunity to reduce his damages. However, a Claimant is not required to exercise unreasonable efforts or incur unreasonable expenses in mitigating damages. Defendant has the burden of proving those damages which the Claimant could have mitigated. In deciding whether to reduce a Claimant's damages because of a failure to mitigate, you must weigh all the evidence in light of the particular circumstances of the case, using sound discretion in deciding whether Defendant has satisfied its burden of proving that the Claimant's conduct was not reasonable.

"Mental anguish" implies a relatively high degree of mental pain and distress. Mental anguish is more than mere disappointment, anger, resentment, or embarrassment, although it may include all of these. Mental anguish includes a mental sensation of pain resulting from such painful emotions as grief, severe disappointment, indignation, wounded pride, shame, despair, and public humiliation.

Plaintiff also seeks to recover punitive damages based on its claims against Defendant. "Punitive damages" are damages which are assessed against a party in an amount that you may, in your discretion, award as a penalty or by way of punishment.

The purpose of an award of punitive damages is to punish Defendant for misconduct and to warn others against doing the same. If you determine that Defendant's conduct justifies an award of punitive damages, you may award an amount of punitive damages which all jurors agree is proper.

To recover punitive damages against Defendant, Plaintiff must prove that Defendant engaged in discriminatory conduct with malice or reckless indifference to Claimants' federally protected rights. The terms "malice" or "reckless indifference" pertain to Defendant's knowledge that its actions were likely to violate Claimants' federally protected rights, not Defendant's awareness that it was engaging in discrimination. To be liable for punitive damages, Defendant must at least have discriminated in the face of a perceived risk that its actions violated federal law.

An employer cannot be held liable for punitive damages for the discriminatory decisions of its managerial agents where these decisions are contrary to the employer's good-faith efforts to comply with federal anti-discrimination laws. In other words, an employer will not be liable for a manager's discriminatory employment decisions when those decisions are contrary to the employer's good-faith efforts to comply with federal laws.

A "managerial agent" or "manager" is one who has the authority to hire employees, terminate employees, discipline employees, promote employees, or otherwise exercise independent judgment and discretion over a certain area of business, including the authority to take adequate steps to deal effectively with the actions or conduct of employees.

You should not interpret the fact that I have given instructions about damages as an indication in any way that I believe that a party should, or should not, win this case. I am instructing you on damages only so that you will have guidance in the event that you decide one party is entitled to recover money from the other party.

QUESTION NO. 1

Did Defendant intentionally subject any of the following Claimants to disparate treatment with respect to compensation, conditions, terms, or privileges of employment because of race or national origin?

Answer "Yes" or "No" as to each Claimant named below:

Ernest Garcia	NO
Johnny Trevino	No
Jose Alvarado	NO
Michael Sanchez	NO
Michael Rojas	No
Darrell Warrick	No

QUESTION NO. 2

Were any of the following Claimants subjected by Defendant to a hostile work environment because of their national origin?

Answer "Yes" or "No" as to each Claimant named below:

Ernest Garcia No

Jose Alvarado No

Michael Sanchez No

Michael Rojas No

If you have answered "Yes" to any of the Claimants Garcia, Alvarado, Sanchez, or Rojas in Question No. 2, then answer the following question as to those same Claimants. Otherwise, do not answer the following question

QUESTION NO. 3

Were any of the following Claimants constructively discharged by Defendant?

Answer "Yes" or "No" as to each Claimant named below:

Ernest Garcia _____

Jose Alvarado _____

Michael Sanchez _____

Michael Rojas _____

QUESTION NO. 4

Were any of the following Claimants retaliated against by Defendant because they engaged in activity protected under federal law?

Answer "Yes" or "No" as to each Claimant named below:

Ernest Garcia No

Darrell Warrick No

Christopher Phillips No

If you answered "Yes" to any subpart of Question 1, 3, or 4,

then answer the following question as to the same claimants. Otherwise, do not answer the following question.

QUESTION NO. 5

What sum of money, if any, if paid now in cash, would be the reasonable damages suffered by the Claimants?

In answering this question you may consider only the elements of damages listed below.

You are to consider each element of damages separately; do not include damages for one element in any other element.

Answer in dollars and cents, if any, or "None" for each of the following elements for each of the listed Claimants:

Ernest Garcia

Lost wages in the past

Answer: _____

Lost employment benefits in the past

Answer: _____

Mental anguish

Answer: _____

Johnny Trevino

Mental anguish

Answer: _____

Jose Alvarado

Lost wages in the past

Answer: _____

Lost employment benefits in the past

Answer: _____

Mental anguish

Answer: _____

Michael Sanchez

Lost wages in the past

Answer: _____

Lost employment benefits in the past

Answer: _____

Mental anguish

Answer: _____

Michael Rojas

Lost wages in the past up through December 31, 1999

Answer: _____

Lost employment benefits in the past up through December 31, 1999

Answer: _____

Mental anguish

Answer: _____

Darrell Warrick

Lost wages in the past

Answer: _____

Lost employment benefits in the past

Answer: _____

Mental anguish

Answer: _____

Christopher Phillips

Lost wages in the past up through April 30, 2000

Answer: _____

Lost employment benefits in the past up through April 30, 2000

Answer: _____

Mental anguish

Answer: _____

If you answered "Yes" to any subpart of Question 1, 2, or 4,

then answer the following question as to the same claimants. Otherwise, do not answer the following question.

QUESTION NO. 6

Did Defendant act against Claimants with malice or reckless indifference in violation of Claimants' federally protected rights?

Answer "Yes" or "No"as to each Claimant listed below:

Ernest Garcia _____

Johnny Trevino _____

Jose Alvarado _____

Michael Sanchez _____

Michael Rojas _____

Darrell Warrick _____

Christopher Phillips _____

If you answered "Yes" to any subpart of Question 6, then answer the following question as to the same claimants. Otherwise, do not answer the following question.

QUESTION NO. 7

What sum of money, if any, if paid now in cash, should be assessed against Defendant and awarded to Plaintiff as punitive damages?

Punitive damages means an amount that you may in your discretion award as a penalty or by way of punishment. Factors to consider in awarding punitive damages, if any, are:

(1) the nature of the wrong

(2) the character of the conduct involved

(3) the degree of culpability of Defendant

(4) the situation and sensibility of the parties concerned

(5) the extent to which such conduct offends the public's sense of justice and propriety

(6) the net worth of Defendant

Answer in dollars and cents, if any, or "None" as to each Claimant

Ernest Garcia _____

Johnny Trevino _____

Jose Alvarado _____

Michael Sanchez _____

Michael Rojas _____

Darrell Warrick _____

Christopher Phillips _____

Certificate

We, the jury, have answered the above and foregoing questions as herein indicated, and herewith return same into court as our verdict.

Melissa Matthews

Presiding Officer of the Jury