FALL 2013 SAMPLE INSTRUCTIONS *FOR REFERENCE ONLY* PLEASE CONSULT THE COURT'S WEBSITE FOR THE LATEST INSTRUCTIONS.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge John L. Kane

Case No. 12-cv-0019-JLK

SHANYA CROWELL,

Plaintiff,

vs.

DENVER HEALTH AND HOSPITAL AUTHORITY,

Defendant.

JURY INSTRUCTIONS

By your verdict, you will decide disputed issues of fact. I will decide all questions of law that arise during the trial. Before you begin your deliberation at the close of the case, I will instruct you one final time on the law that you must follow and apply.

You are to consider all the evidence received in this trial and only the evidence received at trial. It will be up to you to decide what evidence to believe and how much of any witness's testimony to accept or reject.

After you have heard all the evidence on both sides, the parties will make their final arguments. These arguments are not evidence. After these closing arguments, I will again instruct you on the rules of law you are to use in reaching your verdicts, and then you will retire to decide your verdicts.

During the course of the trial I may ask a question of a witness. If I do, that does not mean I have any opinion about the facts in the case. I am only trying to bring out facts that you may consider. From time to time during the trial I may also direct your attention to particular instructions of law.

Ordinarily, the attorneys will develop all the relevant evidence that will be necessary for you to reach your verdicts. However, in rare situations, a juror may believe a question is critical to reaching a decision on a necessary element of the case. In that situation, you may write out a question and provide it to the courtroom deputy at the next recess. I will then consider that question with the lawyers. If it is determined to be a proper and necessary question, I will ask it. If I do not ask it, I will tell you why and explain why such an answer cannot be considered in your deliberations.

If you would like to take notes during the trial, you may. On the other hand, you are not required to take notes.

If you decide to take notes, be careful not to get so involved in note taking that you become distracted, and remember that your notes will not necessarily reflect exactly what was said, so your notes should be used only as memory aids. Therefore, you should not give your notes precedence over your independent recollection of the evidence. You should also not be unduly influenced by the notes of other jurors. If you do take notes leave them in the jury room at night and do not discuss the contents of your notes until you begin deliberations.

During the course of the trial, you may not talk with any witness, or with the parties, or with any of the lawyers at all. In addition, during the course of the trial you should not talk about the trial with anyone else. Also, you should not discuss the merits of this case among yourselves until you have gone to the jury room to make your decision at the end of the trial. It is important that you wait until all the evidence is received and you have again heard my instructions on the controlling rules of law before you

any places mentioned in the case, and do not in any other way try to learn about the case outside the courtroom. Ignore all case related publicity.

It is not fair to the parties to have one or more jurors deciding this case on information that is not presented in court. This would make a mockery of our trial system. It would make irrelevant rules of evidence and the right of cross examination.

You will be surprised to learn that, despite the repeated giving of this instruction by trial judges, there were instances in which jurors disobeyed this instruction. When this is brought to the attention of the court, it frequently results in a mistrial and a new trial, which means the first jury's time was completely wasted.

I can tell you this. If *I* sacrificed several days or weeks of *my* time to serve as a trial juror, and *I* followed the court's instructions not to talk to people or do outside research on the case, and then learned that one of my fellow jurors did *not*, which caused the court to order a mistrial and new trial after we had reached a verdict, I would be FURIOUS and RESENTFUL of that juror. I trust you would feel the same way.

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of the testimony available for your use during deliberations. On the other hand, any exhibits admitted at trial will be available to you during your deliberations.

INSTRUCTION NO. 1.2

STATEMENT OF THE CASE

The following is a brief summary of the claims in this case:

Ms. Crowell worked as a paramedic dispatcher for Denver Health. She claims that her termination from employment for absenteeism was in violation of two federal laws, the Family and Medical Leave Act and the Americans with Disabilities Act, which under certain circumstances allow an employee to take leave from work without adverse disciplinary action.

Denver Health asserts that Ms. Crowell's absences were not protected under either law and that it lawfully terminated Ms. Crowell for violation of its absenteeism policy.

INSTRUCTION NO. 1.3

ORDER OF TRIAL

The case will proceed as follows:

First, the lawyers for each side may make opening statements. What is said in the opening statements is not evidence, but is simply an introduction to help you understand what each party expects the evidence to show.

After the opening statements, Plaintiff will present evidence in support of her claims and Defendant's lawyers may cross-examine the witnesses. At the conclusion of Plaintiff's case, Defendant may introduce evidence and Plaintiff's lawyers may cross-examine the witnesses. Defendant is not required to introduce any evidence or to call any witnesses. If Defendant chooses to introduce evidence, Plaintiff may then present rebuttal evidence.

After the evidence is presented, the parties' lawyers make closing arguments explaining what they think the evidence has shown. What is said in the closing arguments is not evidence.

Finally, I will instruct you on the law that you are to apply in reaching your verdict. You will then decide the case.

INSTRUCTION NO. 1.3.1

DUTY TO FOLLOW INSTRUCTIONS

You, as jurors, are the judges of the facts. But in determining what actually happened – that is, in reaching your decision as to the facts – it is your sworn duty to follow all of the rules of law as I explain them to you.

You may not disregard or give special attention to any one instruction, or question the wisdom or correctness of any rule I may state to you. You must not substitute or follow your own notion or opinion as to what the law is or ought to be. It is your duty to

INSTRUCTION NO. 1.4

EVIDENCE – GENERAL

It will be your duty to decide from the evidence what the facts are. You, and you alone, are the judges of the facts. You will hear the evidence, decide what the facts are, and then apply those facts to the law I give you. That is how you will reach your verdict. In doing so, you must follow the law whether you agree with it or not.

At no time during the trial will I suggest what I think your verdict should be nor do I want you to guess or speculate about my views of what verdict you should render.

You will decide what the facts are from the evidence that the parties will present to you during the trial. That evidence will consist of the sworn testimony of witnesses on both direct and cross-examination, regardless of who called the witness; documents and other things received into evidence as exhibits; and any facts on which the lawyers agree or which I may instruct you to accept as true.

The following things are not evidence and you must not consider them as evidence in deciding the facts of this case:

1. Statements and arguments by lawyers are not evidence. The lawyers are not witnesses. What they say in their opening statements, closing arguments, and at other times is intended to help you interpret the evidence, but it is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, your memory of the facts controls.

2. Questions and objections by the lawyers are not evidence. Lawyers have a duty to their clients to object when they believe a question is improper

under the rules of evidence. You should not be influenced by the objection or by my ruling on it.

3. The lawyers (may) have highlight(ed) certain parts of some exhibits. While an admitted exhibit is evidence, the highlights are not. It is for you to determine the significance of the highlighted parts.

4. Testimony that has been excluded or stricken, or that you have been instructed to disregard, is not evidence and must not be considered by you.

5. Anything you may see or hear when the Court is not in session is not evidence, even if what you see or hear is done or said by one of the parties or by one of the witnesses.

INSTRUCTION NO. 1.5

EVIDENCE - DIRECT AND CIRCUMSTANTIAL

Evidence can be either direct or circumstantial. Direct evidence is testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is indirect evidence; that is, it is proof of one or more facts from which one can find that another fact exists or is true.

As a general rule, the law makes no distinction between direct and circumstantial evidence, and you should consider both kinds of evidence in deciding this case. It is for you to decide how much weight to give to any evidence, direct or circumstantial.

The rules of evidence control the facts you may consider. When one lawyer asks a question or offers an exhibit and an opposing lawyer thinks that it is not permitted by the rules of evidence, the opposing lawyer may object. If I overrule the objection, the question may be answered or the exhibit received. If I sustain the objection, the question cannot be answered and the exhibit cannot be received. Whenever I sustain an objection to a question, you must ignore the question and must not guess what the answer might have been or what the exhibit might have shown.

INSTRUCTION NO. 1.6

FILING OF LAWSUIT AND PLEADINGS

The fact that Plaintiff filed this lawsuit is not evidence that Defendant did anything wrong. The fact that the Plaintiff complains she has been damaged is not evidence that she has been damaged or that Defendant violated the law. You cannot say, "Well, there must be something wrong here or the case would not be in court." This would be improper.

INSTRUCTION 1.7

INSTRUCTION NO. 1.8

QUESTIONS BY JURORS –

PERMITTED

Jurors normally do not ask a witness questions. However, you may ask important questions during the trial under certain conditions.

If you feel that the answer to your question would be helpful in understanding the issues in the case, please write down your question during a break and give it to my courtroom deputy. I will make a copy of your note for the lawyers and speak privately with them to decide whether the question is proper under the law and how best to address it.

If the question is proper, we will repeat it in open court and someone will answer it. If there is some reason why the question cannot be answered, I will tell you what that reason is.

INSTRUCTION NO. 1.9

PUBLICITY DURING TRIAL

If there is publicity about this trial, you must ignore it. Do not read anything or listen to any television or radio programs about the case. You must decide this case only from the evidence presented here in the courtroom.

INSTRUCTION NO. 1.11

CONFERENCES WITH COUNSEL

It may be necessary for me to talk to the lawyers about an issue of law out of your hearing. The purpose of these conferences is to decide how certain legal matters are to be treated. We will not be discussing factual matters.

Sometimes we will talk briefly at the bench. But some of these conferences may take more time, so I will excuse you from the courtroom. I will try to avoid such interruptions whenever possible, but please be patient even if the trial seems to be moving slowly because conferences often actually save time in the end. The lawyers and I will do what we can to limit the number and length of these conferences.

INSTRUCTION

INSTRUCTION NO. 1.13

CREDIBILITY OF WITNESSES

In deciding the facts of this case, you will have to decide which witnesses to believe and which witnesses not to believe. You may believe everything a witness says, only part of it, or none of it.

In considering the testimony of any witness, you may consider:

1. The witness's opportunity and ability to see or hear or know the things to which the witness testified;
2. The quality of the witness's memory;
3. The witness's manner while taking the oath and while testifying;
4. Whether the witness had an interest in the outcome of the case or any motive, bias or prejudice;
7. Whether the witness's testimony is contradicted by anything the witness said or did at another time, by the testimony of other witnesses, or by other evidence;
6. How reasonable the witness's testimony was in light of all the evidence; And
7. Any other facts that bear on believability.

The weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify to that fact.

If you believe a witness has willfully lied regarding any material fact, you have the

right to disregard all or any part of that witness's testimony.

INSTRUCTION NO. 1.14
SINGLE WITNESS

The testimony of

INSTRUCTION NO. 1.16

STATUS OF A CORPORATION OR GOVERNMENT ENTITY

All persons are equal before the law.

INSTRUCTION NO. 1.17

EXPERT WITNESSES

A witness qualified as an expert by education, training, or experience may state opinions. You should judge expert testimony just as you would judge any other testimony. You may accept it or reject it, in whole or in part. You should give the testimony the importance you think it deserves, considering the witness's qualifications, the reasons for the opinions, and all of the other evidence in the case.

INSTRUCTION NO. 1.18

BUSINESS JUDGMENT RIGHTS

Defendant has asserted that it terminated Plaintiff for violation of its absenteeism policy. You are not to second guess the wisdom of that policy or substitute your judgment for that of the Defendant. An employer has discretion to enforce employment policies unless doing so would violate the employee's rights under federal law.

INSTRUCTION NO. 2.1

FAMILY MEDICAL LEAVE ACT

One of Plaintiff's two claims in this lawsuit is brought under the "Family and Medical Leave Act," also called the "FMLA." The FMLA entitles eligible employees to take up to twelve weeks of unpaid leave during any twelve month period for several reasons, including the employee's own serious health condition that makes her unable to perform the functions of her position.

INSTRUCTION NO. 2.2

FAMILY MEDICAL LEAVE ACT –

DEFINITION – INTERMITTENT OR REDUCED LEAVE

The FMLA allows an employee to take leave for a serious health condition on an intermittent or reduced schedule basis. “Intermittent leave” is defined as leave taken in separate blocks of time due to a single qualifying reason and may include leave periods from an hour or more to several weeks.

INSTRUCTION NO. 2.3

FAMILY MEDICAL LEAVE ACT – ELEMENTS OF CLAIM

In order for the Plaintiff to prevail on her FMLA claim, you must find that she has proved all of the following by a preponderance of the evidence.

1. That she requested leave in the manner required by the FMLA and Defendant's policy;
2. That she had a serious health condition;
3. That her serious health condition made her unable to work;
4. That her doctor certified to Defendant that her serious health condition made her unable to work on the date in question; and
5. That Defendant terminated Plaintiff's employment because of an absence that was caused by that serious health condition.

INSTRUCTION NO. 2.

INSTRUCTION NO. 2.5

FAMILY MEDICAL LEAVE ACT – DEFINITION - SERIOUS HEALTH CONDITION

For purposes of Plaintiff's FMLA claim in this lawsuit, a serious health condition is any period of incapacity or treatment for such incapacity due to a chronic condition which:

(1) Requires periodic visits (at least twice a year) for treatment by a health care

INSTRUCTION NO. 2.6

FAMILY MEDICAL LEAVE ACT – DEFINITION - UNABLE TO WORK

For purposes of Plaintiff's FMLA claim in this lawsuit, an employee is unable to work where the health care provider finds that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee's position. An employee who must be absent from work to receive medical treatment for her serious health condition is considered to be unable to perform the essential functions of the position during the absence for treatment.

INSTRUCTION NO. 2.7

FAMILY MEDICAL LEAVE ACT – MEDICAL CERTIFICATION

Under the FMLA, if an employer requests a medical certification, it is the employee's responsibility to provide the employer with complete and sufficient certification and failure to do so may result in the denial of FMLA leave. If an employee submits a complete and sufficient certification signed by a health care provider, the employer may contact the health care provider for clarification of the meaning of the certification. For purposes of determining whether Plaintiff's doctor certified to Defendant that she had a serious health condition which made her unable to work on the date in question, you should consider both the written form that he completed and any other oral or written statements he made to Defendant concerning those issues. Defendant was entitled to rely upon the doctor's statements.

INSTRUCTION NO. 2.8

AMERICANS WITH DISABILITIES ACT

Plaintiff's second claim in this lawsuit is brought under the "Americans with

INSTRUCTION NO. 2.9

AMERICANS WITH DISABILITIES ACT – ELEMENTS OF CLAIM

INSTRUCTION NO. 2.10

AMERICANS WITH DISABILITIES ACT – QUALIFIED - DEFINED

The term "qualified" means that, at the time of the employment decision affecting her, the Plaintiff:

1. Satisfied the required skill, experience, education or other job-related requirements for her position; and

2. Could perform the essential functions of her position, with or without reasonable accommodations.

INSTRUCTION NO. 2.11

AMERICANS WITH DISABILITIES ACT – ESSENTIAL FUNCTIONS - DEFINED

The term "essential functions" means the fundamental duties of the position held by Plaintiff at the time of her termination. To determine whether a function was essential to the position that Plaintiff held, you must consider:

1. The Defendant's judgment as to whether the function was essential; and/or

2. Any written description that was in existence before the dispute arose.

In addition to these factors, you may also consider:

1. The purpose of the position;

2. The number of other employees who were available to perform the particular functions;

3. The degree of expertise or skill required to perform the particular functions;

4. The amount of time spent performing the particular functions;

5. The consequences to the Defendant of not requiring Plaintiff to perform the functions; and/or

6. Any other factor supported by the evidence.

If supported by the evidence, regular and predictable attendance on the job can be an essential function.

INSTRUCTION NO. 2.12

AMERICANS WITH DISABILITIES ACT – DISABILITY - DEFINED

Plaintiff must prove by a preponderance of the evidence that she had a "disability." A person has a "disability" under the ADA if she, at the time of the employment decision affecting her, had a physical impairment that substantially limited one or more major life activities.

INSTRUCTION NO. 2.13

AMERICANS WITH DISABILITIES ACT – PHYSICAL OR MENTAL IMPAIRMENT AND MAJOR LIFE ACTIVITIES – COURT DETERMINATION

The Court has determined that the Plaintiff had the following physical impairment: automobile accident injuries to her arm and back. The Court has determined that the major life activities involved in this case were: lifting, sitting, and walking.

INSTRUCTION NO. 2.14

AMERICANS WITH DISABILITIES ACT – SUBSTANTIALLY LIMITED –

INSTRUCTION NO. 2.15

AMERICANS WITH DISABILITIES ACT –

INSTRUCTION NO. 2.16

AMERICANS WITH DISABILITIES ACT

INTERACTIVE PROCESS-DEFINED

Under the ADA, the employer and the employee are required to engage in an interactive process to determine what actions would be reasonable to accommodate the employee's disability. The employer's duty to engage in the interactive process is triggered when the employee makes it clear she wants assistance for her disability. An employee's request for time off for medical care may constitute a request to take part in the interactive process. The request does not have to be in writing, mention the ADA, or use the words "reasonable accommodation." The interactive process includes a responsibility to provide requested information that is necessary for evaluating what might be a reasonable accommodation.

INSTRUCTION NO. 2.17

AMERICANS WITH DISABILITIES ACT – MEDICAL CERTIFICATION

Under the ADA, if an employer requests a medical certification, it is the employee's responsibility to provide the employer with complete and sufficient certification and failure to do so may result in the denial of ADA leave. If an employee submits a complete and sufficient certification signed by a health care provider, the employer may contact the health care provider for clarification of the meaning of the certification. For purposes of determining whether Plaintiff's doctor certified to Defendant that she had a "disability" under the ADA that required accommodation on the date in question, you should consider both the written form that he completed and any other oral or written statements he made to Defendant concerning those issues. Defendant was entitled to rely upon the doctor's statements.

INSTRUCTION NO. 2.18

AMERICANS WITH DISABILITIES ACT - HONEST BELIEF DEFENSE

An employer who honestly and reasonably believes that it is discharging an employee for absences that are not covered under the ADA, after the employer has made a reasonably informed decision upon the facts available to it, is not liable.

INSTRUCTION NO. 3.1

and suffering has been, or need be, introduced into evidence. There is no exact standard for setting 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.

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 making an award of damages, drawing reasonable inferences from the facts in evidence. You may not award damages based on speculation or guesswork. 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. 3.2

FAILURE TO MITIGATE DAMAGES

Plaintiff is required to make reasonable efforts to minimize damages. In this case,

INSTRUCTION NO. 4.1

GENERAL INTRODUCTION

Now that you have heard the evidence and the argument, it is my duty to instruct you about the applicable law. It is your duty to follow the law as I will state it and to apply it to the facts as you find them from the evidence in the case. Do not single out one instruction as stating the law, but consider the instructions as a whole. You are not to be concerned about the wisdom of any rule of law stated by me. You must follow and apply the law.

Each of you has a copy of the instructions to consult whenever you wish. The lawyers

INSTRUCTION NO. 4.2

JURY DELIBERATIONS – GENERAL INSTRUCTIONS

It is your duty to find the facts from all the evidence in the case. To those facts, you must apply and follow the laws contained in these instructions whether you agree with them or not. Your decision is called a verdict and is reached by applying those laws to the facts as you find them. You have taken an oath promising to do just so.

You must follow all of these instructions and not single out some and ignore others; they are all equally important. You must not read into these instructions or into anything I may say or do any suggestions as to what verdict you should return. Your verdict is a matter entirely for you to decide.

INSTRUCTION NO. 4.3

JURY – DELIBERATIONS

When you go to the jury room to begin your deliberations, you must elect one of you to serve as your Presiding Juror. He or she will preside over your deliberations and speak for you here in court.

You will then discuss the case with your fellow jurors to reach agreements if you can do so. Your verdict must be unanimous.

Each of you must decide the case for yourself, but you should do so only after you have considered all the evidence, discussed it with your fellow jurors, and listened to the views of your fellow jurors. I offer some suggestions on how you might do this in the next jury instruction, entitled "Jury – The Deliberations Process."

Do not be afraid to change your opinion if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right.
It is important that you attempt to reach a unanimous verdict, but, of course, only if each of you can do so after having made your own conscientious decision. Do not change an honest belief about the weight of the evidence simply to reach a verdict.

INSTRUCTION NO. 4.4

JURY –

calmly and, if a break is needed for that purpose, it should be taken. As I mentioned at the beginning of this trial, each of you is responsible for making sure that no juror bases a decision on matters that are not evidence.

Each of you should listen attentively and openly to one another before making any judgment. This is sometimes called “active listening” and it means that you should not listen with only one ear while thinking about a response. Only after you have heard and

a belief is not helpful. It can lead to focusing on personalities rather than the issues. It is best to be patient with one another. At such times slower is usually faster. There is a tendency to set deadlines and seek to force decisions. Providing a break or more time and space, however, often helps to shorten the overall process.

You may wish from time to time to express your mutual respect and repeat your resolve to work through any differences. With such a commitment and mutual respect, you will most likely render a verdict that leaves each of you satisfied that you have indeed rendered justice.

INSTRUCTION NO. 4.5

COMMUNICATIONS WITH JUDGE

If it becomes necessary during your deliberations to communicate with me, you may send a folded note through the court security officer, signed by one of you. Do not disclose the content of your note to the court security officer. No member of the jury should hereafter attempt to communicate with me except by signed writing; and I will communicate with any member of the jury on anything concerning the case only in writing, or orally here in open court. You are not to tell anyone – including me – how the jury stands, numerically or otherwise, until you have reached a unanimous verdict and I have discharged you.

If you send a note to me containing a question or request for further direction, please bear in mind that responses take considerable time and effort. Before giving an answer or direction I must first notify the attorneys and bring them back to the court. I must confer with them, listen to arguments, research the legal authorities, if necessary, and reduce the answer or direction to writing.

There may be some question that, under the law, I am not permitted to answer. If it is improper for me to answer the questions, I will tell you that. Please do not speculate about what the answer to your question might be or why I am not able to answer a particular question.

In some instances jurors request that certain testimony be read to them. This cannot be done as it is inappropriate for the court to single out testimony. In those circumstances you must rely upon your own recollection.

INSTRUCTION NO. 4.6

UNANIMOUS AGREEMENT AND JURY VERDICT FORM

You each have copies of a document called a Jury Verdict Form. You should answer the questions in the Jury Verdict Form as directed. You must reach unanimous agreement on the answers to each of the questions you are directed in the form to answer. Upon arriving at an agreement, your Presiding Juror will insert each answer on the Jury Verdict Form. After all of the questions have been answered as directed by the Jury Verdict Form, your Presiding Juror will date the Jury Verdict Form, sign it, and then ask all of the other jurors to sign it.

After you have filled out the Jury Verdict Form in this manner, your Presiding Juror should advise the court security officer stationed outside the jury room that you have reached a verdict.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Case No. 12-cv-0019-JLK

SHANYA CROWELL,

Plaintiff,

vs.

DENVER HEALTH AND HOSPITAL AUTHORITY,

Defendant.

VERDICT

WE THE JURY, in the above-captioned action, render our verdict in response to the following interrogatories:

PART ONE. FAMILY AND MEDICAL LEAVE ACT CLAIM

Question 1: Did Ms. Crowell prove by a preponderance of the evidence that she requested leave in the manner required by the FMLA and Denver Health's policy?

_____ YES _____ NO

If your answer is "NO," you have found a verdict for Denver Health on Ms. Crowell's FMLA claim. Do not answer any further questions in Part One, and proceed to Part Two. If your answer is "YES," proceed to Question 2.

Question 2: Did Ms. Crowell prove by a preponderance of the evidence that she had a serious health condition as defined in the FMLA?

_____ YES _____ NO

If your answer is "NO," you have found a verdict for Denver Health on Ms. Crowell's FMLA claim. Do not answer any further questions in Part One, and proceed to Part Two. If your answer is "YES," proceed to Question 3.

Question 3: Did Ms. Crowell prove by a preponderance of the evidence that her serious health condition made her unable to work?

_____ YES _____ NO

If your answer is "NO," you have found a verdict for Denver Health on Ms. Crowell's FMLA claim. Do not answer any further questions in Part One, and proceed to Part Two. If your answer is "YES," proceed to Question 4.

Question 4: Did Ms. Crowell prove by a preponderance of the evidence that her doctor certified to Denver Health that her serious health condition made her unable to work on the date in question?

_____ YES _____ NO

If your answer is "NO," you have found a verdict for Denver Health on Ms. Crowell's FMLA claim. Do not answer any further questions in Part One, and proceed to Part Two. If your answer is "YES," proceed to Question 5.

Question 5: Did Ms. Crowell prove by a preponderance of the evidence that Denver Health terminated her employment because of an absence that was caused by that serious health condition?

_____ YES _____ NO

If your answer is "NO," you have found a verdict for Denver Health on Ms. Crowell's FMLA claim. If your answer is "YES," you have found a verdict for Ms. Crowell on her FLMA claim. Do not answer any further questions in Part One, and proceed to Part Two.

PART TWO. AMERICANS WITH DISABILITIES ACT CLAIM

Question 6: Did Ms. Crowell prove by a preponderance of the evidence that she was a qualified individual with a disability as defined in the ADA?

_____ YES _____ NO

If your answer is "NO," you have found a verdict for Denver Health on Ms. Crowell's ADA claim. Do not answer any further questions in Part Two, and proceed to Part Three. If your answer is "YES," proceed to Question 7.

Question 7: Did Ms. Crowell prove by a preponderance of the evidence that Denver Health knew of her disability?

_____ YES _____ NO

If your answer is "NO," you have found a verdict for Denver Health on Ms. Crowell's FMLA claim. Do not answer any further questions in Part Two, and proceed to Part Three. If your answer is "YES," proceed to Question 8.

Question 8: Did Ms. Crowell prove by a preponderance of the evidence that she requested an accommodation that was necessary for her disability?

_____ YES _____ NO

If your answer is "NO," you have found a verdict for Denver Health on Ms. Crowell's FMLA claim. Do not answer any further questions in Part Two, and proceed to Part Three. If your answer is "YES," proceed to Question 9.

Question 9: Did Ms. Crowell prove by a preponderance of the evidence that her doctor certified to Denver Health that she had a disability and the requested accommodation was necessary?

_____ YES _____ NO

If your answer is "NO," you have found a verdict for Denver Health on Ms. Crowell's FMLA claim. Do not answer any further questions in Part Two, and proceed to Part Three. If your answer is "YES," proceed to Question 10.

Question 10: Did Ms. Crowell prove by a preponderance of the evidence that her requested accommodation was reasonable?

_____ YES _____ NO

If your answer is "NO," you have found a verdict for Denver Health on Ms. Crowell's FMLA claim. Do not answer any further questions in Part Two, and proceed to Part Three. If your answer is "YES," proceed to Question 11.

Question 11: Did Ms. Crowell prove by a preponderance of the evidence that Denver Health failed to provide the accommodation requested and unreasonably failed to provide any other accommodation?

_____ YES _____ NO

If your answer is "NO," you have f

inconvenience, and loss of enjoyment of life?

_____ YES _____ NO

If your answer is "YES," what amount of damages for emotional distress, psychological losses, inconvenience, and loss of enjoyment of life do you find that Ms. Crowell could have avoided if she had made reasonable efforts to mitigate her damages: $_____.
(The amount of damages you awarded in response to question 15 will be reduced by any amount that you enter in this blank.)

PART THREE. CERTIFICATION

Proceed to sign the Certification section on the next page.

CERTIFICATION

If your answers to the foregoing questions constitute your true verdict in this case, sign and date the following section. Once you have done so, inform the Court by note that you are ready to return to the courtroom for announcement of your verdict.

By our signatures and our answers to these questions, we hereby certify that the answers on this form represent the unanimous verdict of the jury.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Dated: August ___, 2013