

IN THE COUNTY COURT AT LAW NO. 3  
EL PASO COUNTY, TEXAS

ORIGINAL

ERNESTO BORREGO,

Plaintiff,

vs.

MANAGEMENT & ENGINEERING  
TECHNOLOGIES INTERNATIONAL,  
INC.,

Defendant.

Cause No. 2015DCV3159

FILED WITH THE COURT  
DATE: April 20, 2018  
TIME: 12:50

Javier Alvarez  
JUDGE

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

After the closing arguments, you will go to the jury room to decide the case, answer the questions that are attached, and reach a verdict. You may discuss the case with other jurors only when you are all together in the jury room.

Remember my previous instructions: Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your cell phone or any other electronic device during your deliberations for any reason. I will give you a number where others may contact you in case of an emergency.

Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.

You must leave your notes with the bailiff when you are not deliberating. The bailiff will give your notes to me promptly after collecting them from you. I will make sure your notes are kept in a safe, secure location and not disclosed to anyone. After you complete your deliberations, the bailiff will collect your notes. When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.

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BY [Signature]  
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TIME

JUDGE

Here are the instructions for answering the questions:

1. Do not let bias, prejudice, or sympathy play any part in your decision.
2. Base your answers only on what was presented in the courtroom and on the law that is in these instructions and questions. Do not consider or discuss any evidence that was not presented in the courtroom.
3. You are to make up your own minds about the facts. You are the sole judges of the credibility of the witnesses and the weight to give their testimony. But on matters of law, you must follow all of my instructions.
4. If my instructions use a word in a way that is different from its ordinary meaning, use the meaning I give you, which will be a proper legal definition.
5. All the questions and answers are important. No one should say that any question or answer is not important.
6. Answer “yes” or “no” to all questions unless you are told otherwise. A “yes” answer must be based on a preponderance of the evidence. Whenever a question requires an answer other than “yes” or “no,” your answer must be based on a preponderance of the evidence.

The term “preponderance of the evidence” means the greater weight of credible evidence presented in this case. If you do not find that a preponderance of the evidence supports a “yes” answer, then answer “no.” A preponderance of the evidence is not measured by the number of witnesses or by the number of documents admitted in evidence. For a fact to be proved by a preponderance of the evidence, you must find that the fact is more likely true than not true.

7. This case should be considered and decided by you as an action between persons of equal standing in the community, of equal worth, and holding the same or similar station of life. A company, such as METI is entitled to the same fair trial at your hands as a private individual. All persons, including companies, stand equal before the law, and are to be dealt with as equals in a court of justice.

8. You are instructed that an employer has a right to make employment decisions, such as decisions to terminate employees or other decisions, for a good reason, a bad reason, a wrong reason, or no reason at all, as long as the reason does not violate the Texas Labor Code. In other words, METI’s reasons for making employment decisions do not have to be reasons that are right or correct or reasons you would approve of or act upon, as long as those reasons are not unlawful. You are not to substitute your judgment for that of METI in its employment decisions.

9. Do not decide who you think should win before you answer the questions and then just answer the questions to match your decision. Answer each question carefully without considering who will win. Do not discuss or consider the effect your answers will have.

10. Do not answer questions by drawing straws or by any method of chance.

11. Some questions might ask you for a dollar amount. Do not agree in advance to decide on a dollar amount by adding up each juror's amount and then figuring the average.

12. Do not trade your answers. For example, do not say, "I will answer this question your way if you answer another question my way."

13. The answers to the questions must be based on the decision of at least 10 of the 12 jurors. The same 10 jurors must agree on every answer. Do not agree to be bound by a vote of anything less than 10 jurors, even if it would be a majority.

As I have said before, if you do not follow these instructions, you will be guilty of juror misconduct, and I might have to order a new trial and start this process over again. This would waste your time and the parties' money, and would require the taxpayers of this county to pay for another trial. If a juror breaks any of these rules, tell that person to stop and report it to me immediately.

**QUESTION NO. 1**

Did Management & Engineering Technologies International, Inc. (METI) discharge Ernesto Borrego because of his opposition to a discriminatory practice?

Answer "YES" or "NO."

Answer: Yes

Protected opposition must at least alert an employer to the employee's reasonable belief that unlawful discrimination is at issue.

**If your answer to Question No. 1 is "No", then do not answer Question No. 2 and proceed to the Certificate. If your answer to Question No. 1 is "Yes", then proceed to Question No. 2.**

**QUESTION NO. 2**

What sum of money, if any, if paid now in cash, would fairly and reasonably compensate Ernesto Borrego for his damages, if any, that resulted from such conduct?

Consider the following elements of damages, if any, and none other. Do not include interest on any amount of damages you may find. Do not include back pay or interest in calculating compensatory damages, if any.

Answer in dollars and cents for damages, if any.

a. Back pay.

“Back pay” is that amount of wages and employment benefits that Ernesto Borrego would have earned if he had not been subjected to his employer’s unlawful conduct less any wages, unemployment compensation benefits he received in the interim.

“Employment benefits” include sick-leave pay, profit-sharing benefits, stock options, pension fund benefits.

Answer in dollars and cents: \$ 160,000

b. Compensatory damages in the past, which include emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other noneconomic losses.

Answer in dollars and cents: \$ 7,000

c. Compensatory damages in the future, which include economic losses, emotional pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and other noneconomic losses.

Answer in dollars and cents: \$ 20,000

You are instructed that “mental anguish” refers to a heightened emotional injury beyond ordinary grief; it encompasses keen and poignant mental suffering, a high degree of mental suffering, or an intense pain of mind or body. It does not refer to mere disappointment, fear, resentment, anger, sorrow, 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, shame, despair, and/or public humiliation.

### **Presiding Juror:**

1. When you go into the jury room to answer the questions, the first thing you will need to do is choose a presiding juror.
2. The presiding juror has these duties:
  - a. Have the complete charge read aloud if it will be helpful to your deliberations;
  - b. Preside over your deliberations, meaning manage the discussions, and see that you follow these instructions;
  - c. Give written questions or comments to the bailiff who will give them to the judge;
  - d. Write down the answers you agree on;
  - e. Get the signatures for the verdict certificate; and
  - f. Notify the bailiff that you have reached a verdict.

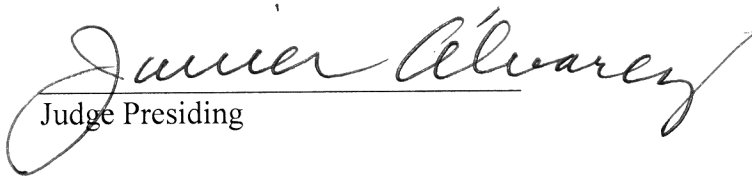
Do you understand the duties of the presiding juror? If you do not, please tell me now.

**Instructions for Signing the Verdict Certificate:**

1. Unless otherwise instructed, you may answer the questions on a vote of 10 jurors. The same 10 jurors must agree on every answer in the charge. This means you may not have one group of 10 jurors agree on one answer and a different group of 10 jurors agree on another answer.
2. If 10 jurors agree on every answer, those 10 jurors sign the verdict. If 11 jurors agree on every answer, those 11 jurors sign the verdict. If all 12 of you agree on every answer, you are unanimous and only the presiding juror signs the verdict.
3. All jurors should deliberate on every question. You may end up with all 12 of you agreeing on some answers, while only 10 or 11 of you agree on other answers. But when you sign the verdict, only those 10 who agree on every answer will sign the verdict.

Do you understand these instructions? If you do not, please tell me now.

Signed the 20<sup>th</sup> day of April, 2018.

  
\_\_\_\_\_  
Judge Presiding



**VERDICT CERTIFICATE**

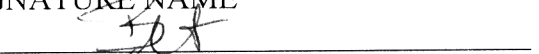

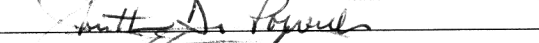
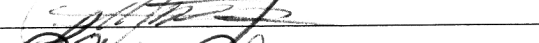


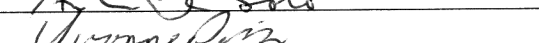
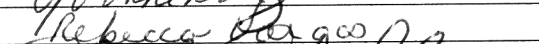

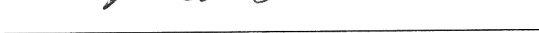
Check one:

Our verdict is unanimous. All 12 of us have agreed to each and every answer. The presiding juror has signed the certificate for all 12 of us.

\_\_\_\_\_  
Signature of Presiding Juror                      Printed Name of Presiding Juror                      \_\_\_\_\_  
Date

Our verdict is not unanimous. Eleven of us have agreed to each and every answer and have signed the certificate below.

Our verdict is not unanimous. Ten of us have agreed to each and every answer and have signed the certificate below.

SIGNATURE NAME	PRINTED
1. 	Beth Harbison
2. 	Ruth McCarthy
3. 	Jonathan Powell
4. 	Marcos Gomez
5. 	Laura Farron Min
6. 	Hesed Valle
7. 	Antonio R. Solo
8. 	Yvonne Diaz
9. 	Rebecca Vargas
10. 	Alexandro Aymeralla
11. _____	_____