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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

11 DAVID CAZARES, an individual,
12 ARA MALEKIAN, an individual,

13 Plaintiffs,

14 v.

15 HIBU INC., business entity, exact form
16 unknown; and DOES 1 through 100,
17 inclusive,

18 Defendants.

Case No. 2:19-cv-09214 DMG (KESx)

(Assigned to The Hon. Dolly M. Gee)

**PLAINTIFF'S PROPOSED
SPECIAL VERDICT FORM RE
ARA MALEKIAN**

Pre-Trial Conference:

Date: January 19, 2021

Time: 2:00 p.m.

Dept.: Courtroom 8C, 8th Floor
First Street Courthouse
350 W. 1st Street
Los Angeles, CA 90012

Trial Date: February 16, 2021

1 **TO THIS HONORABLE COURT AND TO ALL PARTIES AND THEIR**
2 **ATTORNEYS OF RECORD:**

3 **PLEASE TAKE NOTICE** that Plaintiff Ara Malekian hereby submits the
4 following Proposed Special Verdict Form to be issued to the jury in the above-
5 referenced matter.

6
7 Dated: December 29, 2020

SOTTILE ■ BALTAXE

8
9 By /s/ Payam I. Aframian

PAYAM I. AFRAMIAN, ESQ.

Attorneys for Plaintiffs

SPECIAL VERDICT FORM

We, the jury in the case of *David Cazares, et al. v. Hibu Inc.* find the following Special Verdict on the questions submitted to us:

TRIAL PHASE 1 – LIABILITY

SECTION 1: Malekian's Claim for Disability Discrimination:

1. Did Hibu know that Ara Malekian had a disability that limited his ability to work?

Yes _____ No _____

If your answer to Question 1 is yes, proceed to Question 2. If you answered no, proceed to the next section.

2. Was Ara Malekian able to perform his essential job duties with a reasonable accommodation for his disability?

Yes _____ No _____

If your answer to Question 2 is yes, proceed to Question 3. If you answered no, proceed to the next section.

3. Did Hibu subject Ara Malekian to an adverse employment action?

Yes _____ No _____

If your answer to Question 3 is yes, proceed to Question 4. If you answered no, proceed to the next section.

4. Was Ara Malekian's disability a substantial motivating reason for the adverse employment action(s)?

Yes _____ No _____

If your answer to Question 4 is yes, proceed to Question 5. If you answered no, proceed to the next section.

5. Was HIBU's conduct a substantial factor in causing harm to Ara Malekian?

Yes _____ No _____

Proceed to the next section.

SECTION 2: Malekian's Claim for Failure to Provide Reasonable Accommodation:

6. Did Ara Malekian have a disability that limited his ability to work?

Yes _____ No _____

If your answer to Question 6 is yes, proceed to Question 7. If you answered no, proceed to the next section.

7. Did Hibu know that Ara Malekian had a disability that limited his ability to work?

Yes _____ No _____

If your answer to Question 7 is yes, proceed to Question 8. If you answered no, proceed to the next section.

8. Was Ara Malekian able to perform his essential job duties with a reasonable accommodation for his medical condition?

Yes _____ No _____

If your answer to Question 8 is yes, proceed to Question 9. If you answered no, proceed to the next section.

9. Did Hibu fail to provide reasonable accommodation for Plaintiff's disability?

Yes _____ No _____

If your answer to Question 9 is yes, proceed to Question 10. If you answered no, proceed to the next section.

10. Would Ara Malekian's proposed accommodations have created an undue hardship to Hibu's business?

Yes _____ No _____

If your answer to Question 10 is yes, proceed to Question 11. If you answered no, proceed to the next section.

1 11. Was Hibu's failure to provide a reasonable accommodation a substantial factor
2 in causing harm to Ara Malekian?

3 Yes _____ No _____

4 *Proceed to the next section.*

5 **SECTION 3: Malekian's Claim for Failure to Engage in the Interactive Process:**

6 12. Did Ara Malekian have a disability that limited his ability to work?

7 Yes _____ No _____

8 *If your answer to Question 12 is yes, proceed to Question 13. If you answered no,*
9 *proceed to the next section.*

10 13. Did Ara Malekian request Hibu make a reasonable accommodation for his
11 disability so that he would be able to perform the essential job requirements?

12 Yes _____ No _____

13 *If your answer to Question 13 is yes, proceed to Question 14. If you answered no,*
14 *proceed to the next section.*

15 14. Was Ara Malekian willing to participate in an interactive process to determine
16 whether reasonable accommodation could be made?

17 Yes _____ No _____

18 *If your answer to Question 14 is yes, proceed to Question 15. If you answered no,*
19 *proceed to the next section.*

20 15. Did Hibu fail to participate in a timely good-faith interactive process with Ara
21 Malekian to determine whether reasonable accommodation could be made?

22 Yes _____ No _____

23 *If your answer to Question 15 is yes, proceed to Question 16. If you answered no,*
24 *proceed to the next section.*

25 16. Was Hibu's failure to engage in a good-faith interactive process a substantial
26 factor in causing Ara Malekian's harm?

27 Yes _____ No _____

28 *Proceed to the next section.* - 5 -

SECTION 4: Malekian's Claim for Retaliation in Violation of FEHA:

17. Did Ara Malekian request a leave of absence for a disability?

Yes _____ No _____

If your answer to Question 17 is yes, proceed to Question 18. If you answered no, proceed to the next section.

18. Did HIBU subject Ara Malekian to an adverse employment action?

Yes _____ No _____

If your answer to Question 18 is yes, proceed to Question 19. If you answered no, proceed to the next section.

19. Was Ara Malekian's request for a leave of absence a substantial motivating reason for the adverse employment action?

Yes _____ No _____

If your answer to Question 19 is yes, proceed to Question 20. If you answered no, proceed to the next section.

20. Was HIBU's conduct a substantial factor in causing Ara Malekian's harm?

Yes _____ No _____

Proceed to the next section.

SECTION 5: Malekian's Claim for Retaliation in Violation of the CFRA:

21. Has Ara Malekian proven that he was eligible for medical leave?

Yes _____ No _____

If your answer to Question 21 is yes, proceed to Question 22. If you answered no, proceed to the next section.

22. Did Ara Malekian take medical leave?

Yes _____ No _____

If your answer to Question 22 is yes, proceed to Question 23. If you answered no, proceed to the next section.

23. Did HIBU subject Plaintiff to an adverse employment action?

Yes _____ - 6 - No _____

1 *If your answer to Question 23 is **yes**, proceed to Question 24. If you answered **no**,*
2 *proceed to the next section.*

3 24. Was Ara Malekian's taking of medical leave a substantial motivating reason for
4 the adverse employment action?

5 Yes _____ No _____

6 *If your answer to Question 24 is **yes**, proceed to Question 25. If you answered **no**,*
7 *proceed to the next section.*

8 25. Was Hibu's retaliatory conduct a substantial factor in causing Ara Malekian's
9 harm?

10 Yes _____ No _____

11 *Proceed to the next section.*

12 **SECTION 6: Malekian's Claim for Age Discrimination:**

13 26. Was Ara Malekian subjected to an adverse employment action?

14 Yes _____ No _____

15 *If your answer to Question 26 is **yes**, proceed to Question 27. If you answered **no**,*
16 *proceed to the next section.*

17 27. Was Ara Malekian's age a substantial motivating reason for the adverse
18 employment action(s)?

19 Yes _____ No _____

20 *If your answer to Question 27 is **yes**, proceed to Question 28. If you answered **no**,*
21 *proceed to the next section.*

22 28. Was HIBU's adverse employment action a substantial factor in causing harm to
23 Plaintiff Ara Malekian?

24 Yes _____ No _____

25 *Proceed to the next section.*

SECTION 7: Malekian's Claim for Failure to Prevent Discrimination and Retaliation:

29. Did Hibu Inc. fail to take all reasonable steps to prevent the discrimination and/or retaliation?

Yes _____ No _____

If your answer to Question 29 is yes, proceed to Question 30. If you answered no, proceed to the next section

30. Was Hibu's failure to take all reasonable steps to prevent discrimination and/or retaliation a substantial factor in causing Ara Malekian's harm?

Yes _____ No _____

Proceed to the next section.

DAMAGES

31. Did you find in favor of Ara Malekian on one or more of his claims above, by answering YES to one or more of the following questions: Question 5, 11, 16, 20, 25, 28, and/or 30?

Yes _____ No _____

If your answer to Question 31 is yes, proceed to Question 32. If you answered no, proceed to the next section.

32. What are Ara Malekian's damages?

A. Past economic loss [Lost earnings] \$ _____

B. Future economic loss [Lost earnings] \$ _____

C. Past noneconomic loss [physical pain/mental suffering/loss of enjoyment of life/ inconvenience/grief/anxiety/humiliation/emotional distress

\$ _____

D. Future noneconomic loss [physical pain/mental suffering/loss of enjoyment of life/ inconvenience/grief/anxiety/humiliation/emotional distress

\$ _____

1
2 Did an officer, director or managing agent of Hibu act, authorize, or approve of the
3 conduct with malice, oppression, or fraud?

4 Yes _____ No _____

5 No further questions.
6

7 Please have the presiding juror sign and date this Special Verdict Form and
8 return it to the Bailiff.
9

10 Dated: _____

11 _____
12 Presiding Juror
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