

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

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MORRIS CRUTCHFIELD, )

Plaintiff, )

v. )

CASE MANAGEMENT, INC., f/k/a. )  
CONNECTIONS, INC., )

Defendant. )

Case No. 2:17-cv-2706-JPM-cgc

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**JURY INSTRUCTIONS**

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**I. GENERAL INSTRUCTIONS**

Ladies and gentlemen of the jury, we have now come to the point in the case when it is my duty to instruct you on the rules of law that you must follow and apply in deciding this case.

As jurors it is your exclusive duty to decide all questions of fact submitted to you and for that purpose to determine the effect and value of the evidence.

You must not be influenced by sympathy, bias, prejudice, or passion.

You must follow the law as I explain it to you whether you agree with it or not. You are not to single out any particular part of the instructions and ignore the rest, but you are to consider all the instructions as a whole and regard each in the light of all the others.

All of the instructions are equally important. The order in which these instructions are given has no significance. You must follow all of the instructions and not single out some and ignore others.

A. Organization Not to Be Prejudiced

In this case, the defendant is a corporation. That fact must not influence you in your deliberations or in your verdict.

You may not discriminate between businesses, including corporations, and natural individuals. Each is a person in the eyes of the law, and each is entitled to the same fair and impartial consideration and to justice by the same legal standards.

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 stations of life. An organization is entitled to the same fair trial at your hands as a private individual. All persons, including corporations, governments, and government entities, stand equal before the law, and are to be dealt with as equals in a court of justice.

It is your duty to decide this case with the same impartiality you would use in deciding a case between individuals.

B. Organizations/Corporations Act Through Their Authorized Employees or Agents

While Case Management is the defendant in this case, that does not mean that only the actions of the corporation as one body are to be considered by you in determining its defenses. A corporation or business organization acts not only through the policies and decisions it makes, but also through its designated supervisory employees, such as its managers, officers, and others designated by the corporation to act on its behalf.

Pay close attention to the remainder of these instructions. As you apply subsequent portions of these instructions, you will have to determine whether or not individual employees, managers, or agents were authorized to act on behalf of the party you are considering.

### C. Burden of Proof and Consideration of the Evidence

I will now instruct you with regard to where the law places the burden of making out and supporting the facts necessary to prove the theories in the case. The law places upon the plaintiff the burden of supporting and making out each element of his claim by the greater weight or preponderance of the evidence.

The preponderance of the evidence means that amount of factual information presented to you in this trial which is sufficient to cause you to believe that an allegation is probably true. In order to preponderate, the evidence must have the greater convincing effect in the formation of your belief. If the evidence on a particular issue appears to be equally balanced, the party having the burden of proving that issue must fail.

You must consider all the evidence pertaining to every issue, regardless of which party presented it.

#### D. Credibility and Weighing of Evidence

You, the members of the jury, are judges of the facts concerning the controversy involved in this lawsuit. In order for you to determine what the true facts are, you are called upon to weigh the testimony of every witness who appears before you and to give the testimony of the witnesses the weight, faith, credit, and value to which you think it is entitled.

You should consider the manner and demeanor of each witness while on the stand.

You must consider whether the witness impressed you as one who was telling the truth or one who was telling a falsehood, and whether or not the witness was a frank witness. You should consider the reasonableness or unreasonableness of the testimony of the witness; the opportunity or lack of opportunity of the witness to know the facts about which he or she testified; the intelligence or lack of intelligence of the witness; the interest of the witness in the result of the lawsuit, if any; the relationship of the witness to any of the parties to the lawsuit, if any; and whether the witness testified inconsistently while on the witness stand, or if the witness said or did something or failed to say or do something at any other time that is inconsistent with what the witness said while testifying.

These are the rules that should guide you, along with your common judgment, your common experience, and your common observations gained by you in your various walks of life, in weighing the testimony of the witnesses who have appeared before you in this case.

If there is a conflict between the testimony of different witnesses, it is your duty to reconcile that conflict if you can, because the law presumes that every witness has attempted to and has testified to the truth. But if there is a conflict in the testimony of the witnesses that you are not able to reconcile in accordance with these instructions, then you must determine which of the

witnesses you believe have testified to the truth and which ones you believe have testified to a falsehood.

Immaterial discrepancies do not affect a witness's testimony, but material discrepancies do. In weighing the effect of a discrepancy, always consider whether it pertains to a matter of importance or an unimportant detail, and whether the discrepancy results from innocent error or intentional falsehood.

The preponderance of the evidence in a case is not determined by the number of witnesses testifying to a particular fact or a particular set of facts. Rather, it depends on the weight, credit, and value of the total evidence on either side of the issue, and of this you jurors are the exclusive judges.

If in your deliberations you come to a point where the evidence is evenly balanced and you are unable to determine which way the scales should turn on a particular issue, then you must find against the party upon whom the burden of proof has been cast in accordance with these instructions.

Remember, you are the sole and exclusive judges of the credibility or believability of the witnesses who testify in this case.

Ultimately, you must decide which witnesses you believe and how important you think their testimony was. You are not required to accept or reject everything a witness says. You are free to believe all, none, or part of any person's testimony.

E. Impeachment – Inconsistent Statements or Conduct

A witness may be discredited or impeached by contradictory evidence or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness's present testimony.

If you believe that any witness has been impeached and thus discredited, you may give the testimony of that witness such credibility, if any, you think it deserves.

If a witness is shown knowingly to have testified falsely about any material matter, you have a right to distrust such witness's other testimony and you may reject all the testimony of that witness or give it such credibility as you may think it deserves; you may, of course, accept any part you decide is true. This is all for you, the jury, to decide.

An act or omission is done "knowingly" if committed voluntarily and intentionally, and not because of mistake or accident, or some other innocent reason.

## F. Direct and Circumstantial Evidence

There are two kinds of evidence: direct and circumstantial. Direct evidence is testimony by a witness about what a witness personally saw, heard, or did. Circumstantial evidence is indirect evidence—that is, proof of one or more facts from which one can find another fact.

Circumstantial evidence is indirect evidence that gives you clues about what happened. Circumstantial evidence is proof of a fact, or a group of facts, that causes you to conclude that another fact exists. It is for you to decide whether a fact has been proved by circumstantial evidence. If you base your decision upon circumstantial evidence, you must be convinced that the conclusion you reach is more probable than any other explanation.

You may consider both direct and circumstantial evidence in deciding this case. The law permits you to give equal weight to both, but it is for you to decide how much weight to give to any evidence.

## G. Evidence

You are to decide this case only from the evidence that was received—that is, evidence that was presented for your consideration during the trial. The evidence consists of:

1. The sworn testimony of the witnesses who have testified;
2. The exhibits that were received and marked as evidence;
3. Any facts to which the lawyers for both sides have agreed or “stipulated.”

## H. “Inferences” Defined

Although you are to consider only the evidence in this case, you are not limited to the statements of the witnesses. In other words, you are not limited to what you see and hear as the witnesses testify. You may draw from the facts that you find have been proved such reasonable inferences as seem justified in light of your experience.

Inferences are deductions or conclusions that reason and common sense lead you to make from facts established by the evidence in the case.

## I. Statements and Arguments of Counsel

You must not consider as evidence any statements of counsel made during the trial.

If, however, counsel for the parties have stipulated to any fact, or any fact has been admitted by counsel, you will regard that fact as being conclusively established.

As to any questions to which an objection was sustained, you must not speculate as to what the answer might have been or as to the reason for the objection, and you must assume that the answer would be of no value to you in your deliberations.

You must not consider for any purpose any offer of evidence that was rejected, or any evidence that was stricken out by the Court. Such matter is to be treated as though you had never known it.

You must never speculate to be true any insinuation suggested by a question asked of a witness. A question is not evidence. It may be considered only as it supplies meaning to the answer.

J. Totality of the Evidence

You should consider all of the evidence admitted in the case. Testimony and documents which the Court allowed into evidence over a hearsay objection may be considered by you as evidence, on the same basis as all other evidence, for the purpose for which it was admitted. For example, matters and things that a decision maker is told may be considered for the purpose of explaining the basis upon which that person acted or made a decision. This, of course, is all for you, the jury, to decide.

K. Limited Admission of Evidence

You will recall that **during the course of this trial, certain evidence was admitted for a limited purpose only**. You must not consider such evidence for any other purpose.

## L. Hearsay

Hearsay is:

1. A statement,
2. Made out of court,
3. That is admitted for the truth of the thing asserted by the statement.

During the trial, you were shown certain documents, including the VOCA Referral form, and the timeline (Exhibit 11) prepared by Vanessa Jones. You must not consider these documents as proof that the statements regarding sexually inappropriate conduct contained in those documents are true. Instead, those documents have been introduced for the limited purpose of showing that allegations were made, not that the allegations were true.

I gave an example during trial that I will repeat here. Let's say someone, not a witness, calls 9-1-1 and says, "There is a fire at the Orpheum." That statement does not prove in any way that there was, in fact, a fire at the Orpheum. The call is received into evidence for the limited purpose of establishing that the fire department received notice and that, as a result of that notice, it took certain actions in response.

In this case, the VOCA Referral Form, and the timeline (Exhibit 11) prepared by Vanessa Jones are not evidence that Mr. Crutchfield participated in any kind of sexual misconduct.

You may, however, consider these documents as evidence that Case Management received notice of the allegations.

Similarly, you must not rely upon testimony interpreting these documents as evidence that the allegations themselves are actually true. Like the documents themselves, the testimony

interpreting the documents is only admitted on the question of whether Case Management had notice of the allegations.

## M. Juror Notes

If you took notes, please remember that your notes are not evidence. You should keep your notes to yourself. They may only be used to help refresh your personal recollection of the evidence in this case. It is the evidence itself, and not your notes, that you should discuss with the other jurors.

If you cannot recall a particular piece of evidence, you should not be overly influenced by the fact that someone else on the jury appears to have a note regarding that evidence.

Remember, it is your recollection and the collective recollection of all of you upon which you should rely in deciding the facts in the case.

N. Comments by the Court

During the course of this trial, I occasionally asked questions of a witness in order to bring out facts not then fully covered in the testimony. Please do not assume that I hold any opinion on the matters to which my questions may have related. Remember that you, as jurors, are at liberty to disregard all comments of the Court in arriving at your own findings as to the facts.

On the other hand, you are required to follow the Court's instructions on the law, whether you agree with these instructions or not.

O. Deposition & Previous Testimony

Certain testimony has been read into evidence from a deposition. A deposition is testimony taken under oath in advance of this trial and preserved in writing. You are to consider such deposition testimony as if it had been given in this Court.

## II. STATEMENT OF THE CASE AND STIPULATED FACTS

### A. Statement of the Case

This lawsuit arises from the termination of Mr. Crutchfield by his employer, Case Management. Mr. Crutchfield was a case manager, and his job responsibilities involved connecting homeless and impoverished people with social services in the community. Mr. Crutchfield was sixty-five years old when he was terminated, and his replacement was twenty-four years old. Mr. Crutchfield argues that he was fired because of his age.

Case Management alleges that Mr. Crutchfield was not fired because of his age. Instead, Case Management claims that it terminated Mr. Crutchfield for three reasons, which may be related to one another. First, Case Management says that a former client accused Mr. Crutchfield of inappropriate sexual behavior. Second, Case Management says that Mr. Crutchfield took the file of the former client who accused him in order to impede Case Management's investigation into him. Third, Case Management says that Mr. Crutchfield had a past incident of sexual misconduct in 2004. Altogether, Case Management argues that these were the reasons for Mr. Crutchfield's termination, not age.

Mr. Crutchfield argues that the reasons given by Case Management are pretextual, and that age was a motivating factor in his termination.

## B. Stipulated Facts

Before the trial of this case, the parties agreed to the truth of certain facts. As a result of this agreement, all parties entered into certain stipulations in which they agreed that the stipulated facts could be taken as true without the parties presenting further proof on the matter. This procedure is often followed to save time in establishing facts that are undisputed.

Facts stipulated to by the parties in this case include the following:

1. Plaintiff began working for Whitehaven Mental Health Center as a PATH case manager in 2001.
2. In 2010, Whitehaven Mental Health was acquired by Case Management.
3. When Whitehaven Mental Health was acquired by Case Management Plaintiff kept his same position, doing the same duties and responsibilities. His title remained the same. His pay remained unchanged.
4. On August 5, 2015, Plaintiff was suspended by Case Management.
5. On August 8, 2015, Plaintiff was terminated.
6. Plaintiff was born in 1950. In 2015, he was 65 years of age.
7. Plaintiff was replaced by a much younger male person, 24 years of age.

### **III. GENERAL INSTRUCTIONS ON THE APPLICABLE LAW**

#### A. Legal Theories of the Case

Turning now to the legal theories in the case, it is my duty to tell you what the law is. If a lawyer or party has told you that the law is different from what I tell you it is, you must, of course, take the law as I give it to you. That is my duty. But it is your duty, and your duty alone, to determine what the facts are and after you have determined what the facts are, to apply the law to those facts, free from any bias, prejudice, or sympathy, either one way or the other.

B. Nature of the Action – Age Discrimination in Employment Act (ADEA)

As I said earlier, Mr. Crutchfield brings his claim under the Age Discrimination in Employment Act, or the ADEA. The ADEA provides in pertinent part that it shall be unlawful for an employer:

to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age.

### C. Elements of an ADEA Claim

The Age Discrimination in Employment Act forbids discrimination against individuals who are at least 40 years old. In other words, the Act make it unlawful for an employer to discriminate against an individual 40 or older because of his/her age. In order to recover, a plaintiff who alleges discrimination based upon age must prove by a preponderance of the evidence that:

1. The plaintiff was at least forty years of age and was qualified to perform the required duties;
2. The plaintiff was discharged;
3. The position was filled by a younger person; and,
4. Age was a determining factor in the defendant's decision to discharge the plaintiff.

#### D. Discrimination Requirements – But-for Causation

The plaintiff has introduced evidence that he claims demonstrates that an illegitimate factor—age—was a motivating factor in his termination. If you believe the plaintiff’s evidence and are persuaded by a preponderance of the evidence that, except for the consideration of age, the defendant would not have made the same employment decision, then you must find for the plaintiff.

The plaintiff need not establish that age was the sole factor motivating the defendant. Age may be one of a number of factors contributing to the defendant’s actions. The plaintiff must establish by a preponderance of the evidence that age was a determinative factor in the action taken by the defendant. The plaintiff demonstrates that age was a determinative factor if he shows that “but for” age, the adverse action would not have happened – that is, but for his age, he would not have been discharged.

## E. Pretext

If the defendant has offered evidence tending to show a nondiscriminatory reason for the challenged action, you should consider whether the defendant's articulated reason for its action is not the true reason why the defendant took adverse action against the plaintiff and whether the true reason for the adverse action was age discrimination.

When you consider the plaintiff's evidence that the reason advanced by the defendant is a pretext, keep in mind that the relevant question is not whether the defendant's reason showed poor or erroneous judgment. The defendant would be entitled to make its decision for a good reason, a bad reason, or for no reason at all, so long as the decision was not motivated by unlawful discrimination.

It is the plaintiff's burden to persuade you, by a preponderance of the evidence, that the defendant took the adverse action against the plaintiff because of his age. If you do not believe the defendant's explanation for its action, then you may infer, but need not infer, that the real reason was that the defendant intentionally discriminated against the plaintiff because of his age.

Plaintiff may demonstrate that the reasons given by the defendant are unworthy of belief through evidence showing:

1. the offered reasons had no basis in fact;
2. the offered reasons did not actually motivate Plaintiff's discharge; or
3. they were insufficient to motivate Plaintiff's discharge.

## F. At-Will Employment

The law does not prohibit incorrect, arbitrary, or even unfair decisions by an employer, but only decisions which are motivated by intentional age discrimination. The law does not require an employer's decisions to be good, wise, well-considered, or correct. The question you must decide is whether Mr. Crutchfield was terminated because of age discrimination against him, not whether he was treated fairly or whether you approve of Case Management's decisions and procedures. You may not substitute your judgment for that of Case Management and its managers, even though you reasonably might have acted differently or made different decisions with regard to Mr. Crutchfield.

### G. Willful Violation of the ADEA

You are instructed that if you find that plaintiff was discriminated against by defendant on the basis of age, then you must decide whether defendant's conduct was willful.

A violation is willful if the employer either knew or showed reckless disregard for the matter of whether its conduct was prohibited by the Age Discrimination in Employment Act. A violation is willful if it is done voluntarily, deliberately, and intentionally, and not by accident, inadvertence, or ordinary negligence.

If the Defendant acted with actual knowledge that its actions would violate the ADEA, or if Defendant was reckless in not knowing whether its actions would violate the ADEA, or if Defendant acted in reckless disregard of whether its actions were covered by the ADEA, then you must find that Defendant acted willfully.

You are instructed that an act taken by an employer with mere knowledge of potential applicability of the ADEA is insufficient to establish that the employer's actions were willful. Similarly, an act by the employer is not willful if the defendant acts reasonably and in good faith.

## **IV. DAMAGES**

### **A. Consider Damages Only If Necessary**

I will now instruct you on the law as it relates to damages. If the Plaintiff has proven by a preponderance of the evidence that defendant is liable, then you must determine the damages if any to which he is entitled. You must do this only under the instructions I will give you as to how to calculate damages. You should not infer that Mr. Crutchfield is entitled to recover damages merely because I am instructing you on the elements of damages. It is exclusively your function to decide upon liability, and I am instructing you on damages only so that you will have guidance should you decide that Plaintiff is entitled to recovery.

B. Compensatory Damages – Back Pay

Under the ADEA, a successful plaintiff is entitled to recover lost wages and benefits, including increases in wages. The amount of wages and benefits due is determined by calculating the amount that he would have earned from the date of adverse action to the date you, the jury, return a verdict, unless the plaintiff would have been terminated or discharged for nondiscriminatory reasons prior to trial. In the latter circumstances, lost wages and benefits are calculated from the date of the adverse action to the date such discharge would have occurred.

### C. Compensatory Damages – Front Pay

You may determine separately a monetary amount equal to the present value of any future wages and benefits that Mr. Crutchfield would reasonably have earned from Case Management had Mr. Crutchfield not been terminated for the period from the date of your verdict through a reasonable period of time in the future, that is, the date of his expected cessation of employment with the defendant (that is, his anticipated retirement). From this figure you must subtract the amount of earnings and benefits that he would not have otherwise received from other employment during that time. Mr. Crutchfield has the burden of proving these damages by a preponderance of the evidence.

If you find that Mr. Crutchfield is entitled to recovery of future earnings from Case Management, then you must reduce any award by the amount of the expenses that Mr. Crutchfield would have incurred in making those earnings. You must also reduce any award to its present value by considering the interest that plaintiff could earn on the amount of the award if he made a relatively risk-free investment. You must make this reduction because an award of an amount representing future loss of earnings is more valuable to plaintiff if he receives it today than if it were received at the time in the future when it would have been earned. It is more valuable because Mr. Crutchfield can earn interest on it for the period of time between the date of the award and the date he would have earned the money. Therefore, you should decrease the amount of any award for loss of future earnings by the amount of interest that plaintiff can earn on that amount in the future. This is all for you, the jury, to determine.

#### D. Liquidated Damages

If you find that the defendant's violation of the ADEA was "willful," you must award the plaintiff liquidated damages—that is, an additional amount equal to the lost wages and benefits you award. Liquidated damages must be awarded to the plaintiff in addition to the lost wages and benefits he receives.

E. Punitive Damages and Pain and Suffering Prohibited

Even if the plaintiff persuades you that the defendant has violated the ADEA, you may not award the plaintiff damages for pain and suffering or for punitive damages.

## F. Mitigation

The plaintiff has a duty to mitigate his damages – that is, to make reasonable efforts under the circumstances to reduce his damages. If the defendant proves that the plaintiff unjustifiably failed to take new job of like kind, status, and pay which was available to him, or failed to make reasonable efforts to find a new job, you should subtract from the plaintiff's damages any amount he could have earned in a new job.

The defendant has the burden of establishing that the plaintiff failed to use reasonable diligence in mitigating damages. The defendant must prove both the availability of suitable and comparable substitute employment and the lack of reasonable diligence on the part of the plaintiff.

G. Chance or Quotient Verdict Prohibited

The law forbids you to determine any issue in this case by chance.

If you decide that a party is entitled to recover damages, you must not arrive at the amount of those damages by agreeing in *advance*: 1) to use each juror's independent estimate of the amount to be awarded; 2) to total those amounts; 3) to divide the total by twelve; and 4) to make the resulting average the amount that you award.

## V. VERDICT

Finally, ladies and gentlemen, we come to the point where we will discuss the form of your verdict and the process of your deliberations. You will be taking with you to the jury room a verdict form that will reflect your findings. The verdict form reads as follows:

[Read Verdict Form]

You will be selecting a presiding juror after you retire to the jury room. That person will preside over your deliberations and be your spokesperson here in court. When you have completed your deliberations, your presiding juror will fill in and sign the verdict form.

Each of you should deliberate and vote on each issue to be decided.

Before you return your verdict, however, each of you must agree on the answer to each question so that each of you will be able to state truthfully that the verdict is yours.

The verdict you return to the Court must represent the considered judgment of each juror. In order to return a verdict, it is necessary that each juror agree to each answer. Your verdict must be unanimous.

It is your duty to consult with one another and to reach an agreement if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your

deliberations, do not hesitate to re-examine your own views and to change your opinion if you are convinced that it is not correct. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

We will be sending with you to the jury room all of the exhibits in the case. You may not have seen all of these previously and they will be there for your review and consideration. You may take a break before you begin deliberating, but do not begin to deliberate and do not discuss the case at any time unless all of you are present together in the jury room. Some of you have taken notes. I remind you that these are for your own individual use only and are to be used by you only to refresh your recollection about the case. They are not to be shown to others or otherwise used as a basis for your discussion about the case.

If a question arises during deliberations and you need further instructions, please write your question on a sheet of paper, knock on the door of the jury room, and give the question to the court security officer.

I will read your question and I may call you back into the courtroom to try to help you. Please understand that I may only answer questions about the law and I cannot answer questions about the evidence. I caution you, however, that with regard to any message or question you might send me, you should not tell me your numerical division at the time.

I remind you that you are to decide this case based only on the evidence you have heard in court and on the law I have given you. You are prohibited from considering any other information

and you are not to consult any outside sources for information. You must not communicate with or provide any information, photographs, or video to anyone by any means about this case or your deliberations. You may not use any electronic device or media, such as a telephone, cell phone, smart phone or computer; the Internet, any text or instant messaging service; or any chat room, blog, or website such as Facebook, My Space, LinkedIn, YouTube or Twitter, to communicate with anyone or to conduct any research about this case.

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
AT MEMPHIS**

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MORRIS CRUTCHFIELD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No.: 2:17-cv-02706-JPM-cgc
	)	
CASE MANAGEMENT, INC., f/k/a.	)	
CONNECTIONS, INC.,	)	
	)	
Defendant.	)	

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**JURY VERDICT FORM**

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We, the members of the jury, find as follows:

1. Has the Plaintiff proven by a preponderance of the evidence that Case Management terminated him because of his age?

Yes       No

If your answer is "NO," go to the end, sign and return the jury verdict form to the Court.

If your answer is "YES," go to the next question.

2. a. If the Plaintiff was terminated because of his age, state the amount, if any, of back pay he would have received from Defendant if the age discrimination had not occurred:

\$: \_\_\_\_\_

- b. If the Plaintiff was terminated because of his age, state the amount, if any, of additional future pay he would have received from Defendant from the present until the date he would have otherwise stopped working for Case Management:

\$: \_\_\_\_\_

3. Has the defendant proven by a preponderance of the evidence that Plaintiff unjustifiably failed to take new job of like kind, status, and pay which was available to him, or failed to make reasonable efforts to find a new job?

\_\_\_ Yes      \_\_\_ No

If your answer is "NO," go to question 5.

If your answer is "YES," go to question 4.

4. If you found that the plaintiff failed to mitigate his damages, state the amount he could have earned in a new job:

\$: \_\_\_\_\_

5. Has Mr. Crutchfield proven by a preponderance of the evidence that Case Management's conduct was "willful," meaning that it was done voluntarily, deliberately, and intentionally, and not by accident, inadvertence, or ordinary negligence?

\_\_\_ Yes      \_\_\_ No

\_\_\_\_\_  
FOREPERSON

DATE: \_\_\_\_\_