

**FILED**  
KING COUNTY, WASHINGTON

THE HON. JASON HOLLOWAY

FEB 13 2026

SUPERIOR COURT CLERK  
BY Patrick Elhardt  
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
FOR KING COUNTY

KATHLEEN M. FRATES,

Plaintiff,

vs.

COASTAL TRANSPORTATION, INC., a  
Washington Corporation,

Defendant.

NO. 24-2-17273-4 SEA

**Court's Instructions to the Jury**

The Court submits the following instructions to the Jury.

Signed February 10, 2026.

  
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THE HON. JASON HOLLOWAY  
Superior Court Judge

**ORIGINAL**

INSTRUCTION NO. 1

It is your duty to decide the facts in this case based upon the evidence presented to you during this trial. It also is your duty to accept the law as I explain it to you, regardless of what you personally believe the law is or what you personally think it should be. You must apply the law from my instructions to the facts that you decide have been proved, and in this way decide the case.

The evidence that you are to consider during your deliberations consists of the testimony that you have heard from witnesses, and the exhibits that I have admitted, during the trial. If evidence was not admitted or was stricken from the record, then you are not to consider it in reaching your verdict.

Exhibits may have been marked by the court clerk and given a number, but they do not go with you to the jury room during your deliberations unless they have been admitted into evidence. The exhibits that have been admitted will be available to you in the jury room.

In order to decide whether any party's claim has been proved, you must consider all of the evidence that I have admitted that relates to that claim. Each party is entitled to the benefit of all of the evidence, whether or not that party introduced it.

You are the sole judges of the credibility of each witness, and of the value or weight to be given to the testimony of each witness. In assessing credibility, you must avoid bias, conscious or unconscious, including bias based on religion, ethnicity, race, sexual orientation, gender or disability.

In considering a witness's testimony, you may consider these things: the opportunity of the witness to observe or know the things they testify about; the ability of the witness to observe accurately; the quality of a witness's memory while testifying; the manner of the witness while

1 testifying; any personal interest that the witness might have in the outcome or the issues; any bias  
2 or prejudice that the witness may have shown; the reasonableness of the witness's statements in  
3 the context of all of the other evidence; and any other factors that affect your evaluation or belief  
4 of a witness or your evaluation of his or her testimony.

5 One of my duties has been to rule on the admissibility of evidence. Do not be concerned  
6 during your deliberations about the reasons for my rulings on the evidence. If I have ruled that  
7 any evidence is inadmissible, or if I have asked you to disregard any evidence, then you must not  
8 discuss that evidence during your deliberations or consider it in reaching your verdict.

9 The law does not permit me to comment on the evidence in any way. I would be  
10 commenting on the evidence if I indicated my personal opinion about the value of testimony or  
11 other evidence. Although I have not intentionally done so, if it appears to you that I have  
12 indicated my personal opinion, either during trial or in giving these instructions, you must  
13 disregard it entirely.

14 The comments of the lawyers during this trial are intended to help you understand the  
15 evidence and apply the law. However, it is important for you to remember that the lawyers'  
16 remarks, statements, and arguments are not evidence. You should disregard any remark,  
17 statement, or argument that is not supported by the evidence or the law as I have explained it to  
18 you.

19 You may have heard objections made by the lawyers during trial. Each party has the right to  
20 object to questions asked by another lawyer, and may have a duty to do so. These objections  
21 should not influence you. Do not make any assumptions or draw any conclusions based on a  
22 lawyer's objections.  
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1 As jurors, you have a duty to consult with one another and to deliberate with the intention of  
2 reaching a verdict. Each of you must decide the case for yourself, but only after an impartial  
3 consideration of all of the evidence with your fellow jurors. Listen to one another carefully. In  
4 the course of your deliberations, you should not hesitate to re-examine your own views and to  
5 change your opinion based upon the evidence. You should not surrender your honest convictions  
6 about the value or significance of evidence solely because of the opinions of your fellow jurors.  
7 Nor should you change your mind just for the purpose of obtaining enough votes for a verdict.

8 As jurors, you are officers of this court. You must not let your emotions overcome your  
9 rational thought process. You must reach your decision based on the facts proved to you and on  
10 the law given to you, not on sympathy, prejudice, or personal preference. To assure that all  
11 parties receive a fair trial, you must act impartially with an earnest desire to reach a proper  
12 verdict.  
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14 Finally, the order of these instructions has no significance as to their relative importance.  
15 They are all equally important. In closing arguments, the lawyers may properly discuss specific  
16 instructions, but you must not attach any special significance to a particular instruction that they  
17 may discuss. During your deliberations, you must consider the instructions as a whole.  
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INSTRUCTION NO. 2

The following is merely a summary of the claims of the parties. You are not to consider the summary as proof of the matters claimed unless otherwise indicated by separate instruction; and you are to consider only those matters that are admitted or are established by the evidence. These claims have been outlined solely to aid you in understanding the issues.

The Plaintiff has brought claims for both retaliation and disability discrimination in the workplace. Plaintiff asserts that she was retaliated against because she (a) opposed what she reasonably believed to be violations of the Washington Law Against Discrimination with regard to another employee; and (b) asserted her own right to reasonable accommodation for medical purposes. For her disability discrimination claim, Plaintiff asserts both that she was treated in wrongful manner based on her disability and that Defendant failed to accommodate her by firing her rather than continuing to provide the reasonable accommodation she requested.

The Defendant denies that it unlawfully terminated Plaintiff in retaliation or due to her disabilities, and denies that it failed to reasonably accommodate Plaintiff's disabilities.

Defendant denies that Plaintiff suffered any damages unlawfully caused by Defendant, and disputes the nature and extent of Plaintiff's claimed injuries and damages.

INSTRUCTION NO. 3

When you begin to deliberate, your first duty is to select a presiding juror. The presiding juror's responsibility is to see that you discuss the issues in this case in an orderly and reasonable manner, that you discuss each issue submitted for your decision fully and fairly, and that each one of you has a chance to be heard on every question before you. Deliberations are to occur only in the jury room when all twelve jurors are present.

You are all officers of the court and must evaluate the evidence with an open mind free of bias or prejudice. If during your deliberations, you become concerned that the discussions are being influenced by preconceived bias or prejudice, you must bring this to the attention of the other jurors so that the issue may be fairly discussed among all members of the jury.

You will be given the exhibits admitted in evidence and these instructions. You will also be given a special verdict form that consists of several questions for you to answer. You must answer the questions in the order in which they are written, and according to the directions on the form. It is important that you read all the questions before you begin answering, and that you follow the directions exactly. Your answer to some questions will determine whether you are to answer all, some, or none of the remaining questions.

During your deliberations, you may discuss any notes that you have taken during the trial, if you wish. You have been allowed to take notes to assist you in remembering clearly, not to substitute for your memory or the memories or notes of other jurors. Do not assume that your notes are more or less accurate than your memories.

You will need to rely on your notes and memory as to the testimony presented in this case. Testimony will rarely, if ever, be repeated for you during your deliberations.

1 If, after carefully reviewing the evidence and instructions, you feel a need to ask the court a  
2 legal or procedural question that you have been unable to answer, write the question out simply  
3 and clearly. For this purpose, use the form provided in the jury room. In your question, do not  
4 state how the jury has voted, or in any other way indicate how your deliberations are proceeding.  
5 The presiding juror should sign and date the question and give it to the bailiff. I will confer with  
6 the lawyers to determine what response, if any, can be given.

7 In order to answer any question on the special verdict form, ten jurors must agree upon the  
8 answer. It is not necessary that the jurors who agree on the answer be the same jurors who agreed  
9 on the answer to any other question, so long as ten jurors agree to each answer.

10 When you have finished answering the questions according to the directions on the special  
11 verdict form, the presiding juror will sign the verdict form. The presiding juror must sign the  
12 verdict whether or not the presiding juror agrees with the verdict. The presiding juror will then  
13 tell the bailiff that you have reached a verdict. The bailiff will bring you back into court where  
14 your verdict will be announced.  
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INSTRUCTION NO. 4

The law treats all parties equally whether they are corporations, business entities, or individuals. This means that corporations, business entities, and individuals are to be treated in the same fair and unprejudiced manner.

INSTRUCTION NO. 5

Coastal Transportation, Inc. is a corporation. A corporation can act only through its officers and employees. Any act or omission of an officer or employee is the act or omission of the corporation.

INSTRUCTION NO. 6

When it is said that a party has the burden of proof on any proposition, or that any proposition must be proved by a preponderance of the evidence, or the expression "if you find" is used, it means that you must be persuaded, considering all the evidence in the case bearing on the question, that the proposition on which that party has the burden of proof is more probably true than not true.

INSTRUCTION NO. 4

The evidence that has been presented to you may be either direct or circumstantial. The term “direct evidence” refers to evidence that is given by a witness who has directly perceived something at issue in this case. The term “circumstantial evidence” refers to evidence from which, based on your common sense and experience, you may reasonably infer something that is at issue in this case.

The law does not distinguish between direct and circumstantial evidence in terms of their weight or value in finding the facts in this case. One is not necessarily more or less valuable than the other.

INSTRUCTION NO. 3

A witness who has special training, education, or experience may be allowed to express an opinion in addition to giving testimony as to facts.

You are not, however, required to accept his or her opinion. To determine the credibility and weight to be given to this type of evidence, you may consider, among other things, the education, training, experience, knowledge, and ability of the witness. You may also consider the reasons given for the opinion and the sources of his or her information, as well as considering the factors already given to you for evaluating the testimony of any other witness.

INSTRUCTION NO. 9

Washington is an "at will" employment state. This means that, unless otherwise agreed, the employment relationship may be terminated at will by either the employer or the employee for any lawful reason, for no cause, or for good cause, with or without notice, without incurring liability.

A violation of the Washington Law Against Discrimination, as described in these instructions, is not a lawful reason to terminate an employee.

INSTRUCTION NO. 10

Whether or not a party has received unemployment benefits has no bearing on any issue that you must decide. You must not speculate about whether a party has received unemployment benefits. You are not to make or decline to make any award, or increase or decrease any award, because you believe that a party may have received unemployment benefits. Even if unemployment benefits were received by a party, the question of who pays or who reimburses whom would be decided in a different proceeding. Therefore, in your deliberations, do not discuss any matters regarding unemployment benefits. You are to consider only those questions that are given to you to decide in this case.

INSTRUCTION NO. 11

Defense Exhibit 138 (Matt Yip's "Kathy log") was admitted for only a limited purpose. Defense Exhibit 138 was not admitted to prove that the statements contained in the document are true. You may not consider the content of Exhibit 138 as evidence of the truth of the matters stated within this document. Instead, you may evaluate this evidence solely on the issue of motive.

INSTRUCTION NO. 12

It is unlawful under the Washington Law Against Discrimination for an employer to retaliate against a person for participating in any of the following protected activities: requesting reasonable accommodation for a medical disability, opposing what the person reasonably believed to be discrimination on the basis of disability, or providing information to or participating in a proceeding to determine whether discrimination or retaliation occurred.

To establish a claim of unlawful retaliation by Coastal Transportation, Inc., Kathleen Frates has the burden of proving both of the following propositions:

- (1) That Kathleen Frates was participating in an activity protected by the Washington Law Against Discrimination. The Court has already determined that Kathleen Frates was participating in an activity protected by the Washington Law Against Discrimination when she requested reasonable accommodation, and therefore you must accept this proposition as satisfied with regard to this protected activity. You may or may not find that Kathleen Frates also opposed the termination of William Weed or asserted her own rights under the Washington Law Against Discrimination, which would also, if found, be protected activities.

and

- (2) That a substantial factor in an adverse employment action was Kathleen Frates' participation in an activity protected by the Washington Law Against Discrimination.

If you find from your consideration of all of the evidence that both of these propositions have been proved, then your verdict should be for Kathleen Frates on this claim. On the other hand, if any one of these propositions has not been proved, your verdict should be for Coastal Transportation, Inc. on this claim.

1 Kathleen Frates does not have to prove that her participation in the protected activity was  
2 the only factor or the main factor in the adverse employment action, nor does Kathleen Frates  
3 have to prove that she would not have experienced the adverse employment action but for her  
4 participation in the protected activity.  
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INSTRUCTION NO. 13

The term “adverse” means unfavorable or disadvantageous. An employment action is adverse if it is harmful to the point that it would dissuade a reasonable employee from making a complaint of discrimination, harassment, or retaliation. Whether a particular action is adverse is judged from the perspective of a reasonable person in the plaintiff’s position.

INSTRUCTION NO. 14

A disability is a sensory, mental, or physical impairment that:

- (1) Is medically recognized or diagnosable; or
- (2) Exists as a record or history; or
- (3) Is perceived by the employer to exist, whether or not it exists in fact.

A disability may exist whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, whether or not it limits the ability to work generally or work at a particular job, or whether or not it limits any other activity.

The Court has already determined that Kathleen Frates has a disability as a matter of law and therefore you must accept this proposition as satisfied.

INSTRUCTION NO. 15

An impairment includes but is not limited to: a physiological disorder, or condition affecting one or more of the following body systems: neurological or Musculo-skeletal.

The Court has already determined that Kathleen Frates has a disability as a matter of law and therefore you must accept that Kathleen Frates also had an impairment as a matter of law.

INSTRUCTION NO. 16

Discrimination in employment on the basis of disability is prohibited.

To establish her claim of discrimination on the basis of disability, Kathleen Frates has the burden of proving each of the following propositions:

(1) That she has a disability or is perceived to have a disability. The Court has already determined that this proposition is established by the evidence and therefore you must accept this proposition as satisfied. Plaintiff must still prove:

(2) That she is able to perform the essential functions of the job in question with reasonable accommodation; and

(3) That her disability or the perception of her disability was a substantial factor in Coastal Transportation, Inc.'s decision to terminate her. Kathleen Frates does not have to prove that disability was the only factor or the main factor in the decision. Nor does Kathleen Frates have to prove that she would have been retained but for her disability.

If you find from your consideration of all of the evidence that each of these propositions has been proved, then your verdict should be for Kathleen Frates on this claim. On the other hand, if any of these propositions has not been proved, your verdict should be for Coastal Transportation, Inc. on this claim.

INSTRUCTION NO. 17

A reasonable accommodation is a measure that enables the proper performance of the essential job functions; or enables the enjoyment of equal benefits, privileges, or terms and conditions of employment that are available to employees without disabilities.

Once an employer is on notice of an impairment, the employer has a duty to inquire about the nature and extent of the impairment. The employee has a duty to cooperate with her employer to explain the nature and extent of the employee's impairment and resulting limitations as well as her qualifications.

An employer must provide a reasonable accommodation for an employee with a disability unless the employer can show that the accommodation would impose an undue hardship on the employer. The obligation to reasonably accommodate applies to all aspects of employment, and an employer cannot deny an employment opportunity to an employee because of the need to provide reasonable accommodation.

There may be more than one reasonable accommodation of a disability. Where multiple potential modes of accommodation exist, the employer is entitled to select the mode of accommodation to the exclusion of other choices, if the accommodation is adequate.

An employer is not required to reassign an employee to a position that is already occupied, create a new position, or eliminate or reassign essential job functions as a reasonable accommodation.

The duty to accommodate is continuing. If an employer's first attempt at accommodation fails, it must continue to attempt modes of accommodation unless it can demonstrate that remaining modes of accommodation constitute an undue hardship. An employer's previously

1 unsuccessful attempts at accommodation do not give rise to liability if the employer ultimately  
2 provides a reasonable accommodation.

3 A reasonable accommodation may include adjustments in the manner in which essential  
4 functions are carried out, work schedules, scope of work, and changes in the job setting or  
5 conditions of employment that enable the person to perform the essential functions of the job.  
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INSTRUCTION NO. 18

Discrimination in employment on the basis of disability is prohibited. One form of unlawful discrimination is a failure to reasonably accommodate an employee's disability.

To establish her claim of discrimination on the basis of failure to reasonably accommodate a disability, Kathleen Frates has the burden of proving each of the following propositions:

(1) That she had an impairment that is medically recognizable or diagnosable or exists as a record or history. The Court has already determined that this proposition is established by the evidence and therefore you must accept this proposition as satisfied. Plaintiff still must prove:

(2) That either

(a) the employee gave the employer notice of the impairment; or

(b) no notice was required to be given because the employer knew about the employee's impairment.

(3) That either

(a) the impairment had a substantially limiting effect on

(i) her ability to perform her job; or

(ii) her ability to access equal benefits, privileges, terms, or conditions of employment; or

(b) the employee has provided medical documentation to the employer establishing a reasonable likelihood that working without an accommodation would aggravate the impairment to the extent it would create a substantially limiting effect;

(4) That she would have been able to perform the essential functions of the job in question with reasonable accommodation; and

(5) That the employer failed to reasonably accommodate the impairment.

1 In determining whether an impairment has a substantially limiting effect, a limitation is not  
2 substantial if it has only a trivial effect.

3 If you find from your consideration of all of the evidence that each of these propositions has  
4 been proved, then your verdict should be for the plaintiff on this claim. On the other hand, if any  
5 of these propositions has not been proved, your verdict should be for the employer on this claim.  
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INSTRUCTION NO. 12

“Substantial factor” means a significant motivating factor in bringing about the employer's decision. “Substantial factor” does not mean the only factor or the main factor in the challenged act or decision. “Substantial factor” also does not mean that Kathleen Frates would have been not terminated but for her disability.

INSTRUCTION NO. 20

It is the duty of the Court to instruct you as to the measure of damages. By instructing you on damages, the Court does not mean to suggest for which party your verdict should be rendered.

If your verdict is for plaintiff Kathleen Frates, you must determine the amount of money that will reasonably and fairly compensate the plaintiff for such damages as you find were proximately caused by the acts of defendant Coastal Transportation, Inc.

If you find for a plaintiff, you should consider the following elements:

- (1) The reasonable value of lost past earnings and fringe benefits, from the date of the wrongful conduct to the date of trial;
- (2) The reasonable value of lost future earnings and fringe benefits; and
- (3) The emotional harm to Kathleen Frates caused by Coastal Transportation, Inc.'s wrongful conduct, including emotional distress, loss of enjoyment of life, humiliation, pain and suffering, personal indignity, embarrassment, fear, anxiety, and/or anguish experienced and with reasonable probability to be experienced by Kathleen Frates in the future.

The burden of proving damages rests with the party claiming them, and it is for you to determine, based upon the evidence, whether any particular element has been proved by a preponderance of the evidence.

Any award of damages must be based upon evidence and not upon speculation, guess, or conjecture. The law has not furnished us with any fixed standards by which to measure emotional distress, loss of enjoyment of life, humiliation, pain and suffering, personal indignity, embarrassment, fear, anxiety, and/or anguish. With reference to these matters, you must be governed by your own judgment, by the evidence in the case, and by these instructions.

INSTRUCTION NO. 21

Kathleen Frates has a duty to use reasonable efforts to mitigate damages. To mitigate means to avoid or reduce damages.

To establish a failure to mitigate, Coastal Transportation Inc. has the burden of proving:

- (1) There were openings in comparable positions available for Kathleen Frates elsewhere after Coastal Transportation Inc. terminated her;
- (2) Kathleen Frates failed to use reasonable care and diligence in seeking those openings; and
- (3) The amount by which damages would have been reduced if Kathleen Frates had used reasonable care and diligence in seeking those openings.

You should take into account the characteristics of Kathleen Frates and the job market in evaluating the reasonableness of Kathleen Frates' efforts to mitigate damages.

If you find that Coastal Transportation Inc. has proved all of the above, you should reduce your award of damages for wage loss accordingly.

INSTRUCTION NO. 22

If your verdict is for a plaintiff, and if you find that:

(1) before this occurrence the plaintiff had a physical condition or mental condition that was not causing pain or disability; and

(2) because of this occurrence the pre-existing condition was lighted up or made active, or the condition made the plaintiff more susceptible to injury than a person in normal health, then you should consider the lighting up and any other injuries that were proximately caused by the occurrence, even though those injuries, due to the pre-existing condition, may have been greater than those that would have been incurred under the same circumstances by a person without that condition.