

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LINDA GIBBS,

Plaintiff,

Case No: 13-13476

Honorable Laurie J. Michelson

v.

VOITH INDUSTRIAL SERVICES,  
INC., et al.

Defendants.

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**JURY INSTRUCTIONS**

JURY INSTRUCTION NUMBER 21:

One claim made by the Plaintiff is based on a state law known as the Michigan Elliott-Larsen Civil Rights Act. That law provides in part that an employer shall not discriminate against a person regarding employment, compensation, or a term, condition, or privilege of employment because of age.

The Plaintiff alleges that the Defendants failed to train Plaintiff on the use of powered motor vehicles because of her age resulting in lost overtime, emotional damages, and pain and suffering. The Plaintiff claims that such actions constitute age discrimination under Michigan's Elliott-Larsen Civil Rights Act. The Defendants deny that the Plaintiff was denied training or that she was discriminated against.

The Plaintiff has the burden to prove by a preponderance of the evidence that she was discriminated against because of her age.

The Plaintiff has the burden of proving that:

- a. The Defendants failed to train the Plaintiff, and
- b. That age was one of the motives or reasons which made a difference in determining to fail to train the Plaintiff.

The discrimination must have been intentional. It cannot have occurred by accident. Intentional discrimination means that one of the motives or reasons for the Plaintiff's failure to be trained was age. Age does not have to be the only reason, or even the main reason, but it does have to be one of the reasons which made a difference in determining whether or not to train the Plaintiff. The Plaintiff has the burden of proving that her age was one of the motives or reasons which made a difference in determining whether to train her.

Your verdict will be for the Plaintiff if you find that the Defendants failed to train the Plaintiff, and that age was one of the motives or reasons which made a difference in failing to train the Plaintiff.

Your verdict will be for the Defendants if you find that the Defendants did train the Plaintiff. Your verdict will also be for the Defendants if you find that the Defendants failed to train the Plaintiff, but that age was not one of the motives or reasons which made a difference in determining not to train the Plaintiff.

JURY INSTRUCTION NUMBER 22:

Your task is to determine whether the Defendants discriminated against the Plaintiff on the basis of her age. You are not to substitute your judgment for the Defendants' business judgment, or decide this case based upon what you would have done.

However, you may consider the reasonableness or lack of reasonableness of Defendants' stated business judgment along with all the other evidence in determining whether Defendants discriminated or retaliated against the Plaintiff.

JURY INSTRUCTION NUMBER 23:

If you find that the Defendants discriminated against the Plaintiff on the basis of her age in violation of the Michigan Elliott-Larsen Civil Rights Act, you may award damages. The amount of damages should be sufficient to make the Plaintiff whole. The amount of damages may be based on:

- a. Lost wages that were the result of the discrimination, and associated loss of overtime;
- and
- b. Any non-economic damages resulting from the discrimination, such as emotional damages and pain and suffering.

JURY INSTRUCTION NUMBER 24:

If you decide that the Plaintiff is entitled to non-economic damages, it is your duty to determine the amount of money which reasonably, fairly and adequately compensates her for each of the elements of damage which you decide has resulted from the discrimination by the Defendants, taking into account the nature and extent of the injury. The damages you award must be fair compensation: no more and no less.

You should include each of the following elements of damage which you decide has been sustained by the Plaintiff to the present time:

- (a) physical pain and suffering;
- (b) mental anguish; or
- (c) embarrassment or humiliation.

If any element of damage is of a continuing nature, you shall decide how long it may continue. If an element of damage is permanent in nature, then you shall decide how long the plaintiff is likely to live.

Which, if any, of these elements of damage has been proved is for you to decide based upon evidence and not upon speculation, guess or conjecture. The amount of money to be awarded for certain of these elements of damage cannot be proved in a precise dollar amount. The law leaves such amount to your sound judgment. Your verdict must be solely to compensate Plaintiff for her damages, and not to punish the Defendants.

From Case:

2:13-cv-13476-LJM-RSW Gibbs v. Voith Industrial Services, Inc. et al

Additional Keywords:

ELCRA

Michigan Civil Rights Act

Michigan CRA

Age Discrimination

Employment Discrimination