

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

ALINA BOYDEN and  
SHANNON ANDREWS,

Plaintiffs,

Case No. 17-cv-264

v.

STATE OF WISCONSIN DEPARTMENT  
OF EMPLOYEE TRUST FUNDS, et al.,

Defendants.

---

**PLAINTIFFS' RESPONSE TO DEFENDANTS' AMENDED  
PROPOSED DAMAGES SPECIAL VERDICT FORM**

---

Pursuant to the Court's Pretrial Conference Order (Dkt. # 215), Plaintiffs, by their undersigned attorneys, hereby respond to Defendants' Amended Proposed Damages Special Verdict Form (Dkt. # 216).

Special verdict forms must be evaluated in conjunction with the jury instructions. *EEOC v. Mgmt. Hosp. of Racine, Inc.*, 666 F.3d 422, 439-440 (7th Cir. 2012). When read together, the jury instructions and special verdict must give the jury "[an] understanding of the issues and its duty to determine those issues." *Id.* at 440 (citing *Happel v. Walmart Stores, Inc.*, 602 F.3d 820, 827 (7th Cir. 2010)).

Plaintiffs object to Questions 1 and 3 of the Defendants' Amended Proposed Damages Special Verdict Form. These questions are redundant of the Closing Jury Instructions on Damages, which provides the jury with detailed instruction regarding causation ("You must determine the amount of money that will fairly and reasonably

compensate plaintiffs for any injury that you find they sustained as a result of the exclusion of coverage of gender confirming surgery and related hormone therapy for state employees”) and further explicitly instructs the jury that “[i]f you find that plaintiffs have failed to prove compensatory damages, you must return a verdict for them in the amount of one dollar.” In light of these clear and detailed jury instructions, Questions 1 and 3 of Defendants’ Amended Proposed Damages Special Verdict Form serve no purpose. Further, these questions could mislead the jury to ignore the specific jury instructions and instead make a legal determination based on the vague special verdict question. For this reason, Plaintiffs propose eliminating Questions 1 and 3 and posing only Questions 2 and 4 to the jury.

Dated this 1st day of October, 2018.

**HAWKS QUINDEL, S.C.**  
*Counsel for Plaintiffs,*

By: /s/ Nicholas E. Fairweather  
Nicholas E. Fairweather, State Bar No. 1036681  
Email: nfairweather@hq-law.com  
Caitlin M. Madden, State Bar No. 1089238  
Email: cmadden@hq-law.com  
Michael R. Godbe, State Bar No. 1104823  
Email: mgodbe@hq-law.com  
Amanda M. Kuklinski, State Bar No. 1090506  
Email: akuklinski@hq-law.com  
409 East Main Street  
Post Office Box 2155  
Madison, Wisconsin 53701-2155  
Telephone: (608) 257-0040

**AMERICAN CIVIL LIBERTIES UNION OF  
WISCONSIN FOUNDATION**

*Counsel for Plaintiffs,*

By: /s/ Laurence J. Dupuis

Laurence J. Dupuis, State Bar No. 1029261

Email: ldupuis@aclu-wi.org

Asma I. Kadri, State Bar No. 1114761

Email: akadri@aclu-wi.org

ACLU of Wisconsin Foundation

207 East Buffalo Street, Suite 325

Milwaukee, Wisconsin 53202

Telephone: (414) 272-4032

**AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION**

*Counsel for Plaintiffs,*

By: /s/ John A. Knight

John A. Knight

Email: jknight@aclu.org

ACLU Foundation

Lesbian Gay Bisexual Transgender Project

Carolyn M. Wald

Email: cwald@aclu-il.org

Roger Baldwin Foundation of ACLU, Inc.

150 North Michigan Avenue, Suite 600

Chicago, Illinois 60601

Telephone: (312) 201-9740