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Attorneys for Defendants

IXL Learning, Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

U.S. EQUAL EMPLOYMENT OPPORTUNITY : Case No.: 3:17-cv-02979-VC

COMMISSION, :

Plaintiff, :

and :

ADRIAN SCOTT DUANE, :

Plaintiff-Intervenor, :

v. :

IXL LEARNING, INC., :

Defendant. :

**DEFENDANT'S PROPOSED  
VERDICT FORM**

Judge: Hon. Vince Chhabria

Courtroom: 4, 17th Floor

Trial Date: October 22, 2018

**RETALIATION – TITLE VII**

1  
2 1. Did Plaintiffs prove by a preponderance of the evidence that Mr. Duane complained of Title VII  
3 discrimination in his online review of Defendant?

4 Yes \_\_\_\_\_

5 No \_\_\_\_\_

6 If your answer to Question 1 was “YES,” please go to Question 2; if your answer was “NO,” please go to  
7 Question 3.

8 2. Did Plaintiffs prove by a preponderance of the evidence that Defendant terminated his employment  
9 because Mr. Duane complained of Title VII discrimination in his online review? In other words,  
10 did Plaintiffs prove by a preponderance of the evidence that Defendant would not have terminated  
11 Mr. Duane but for the complaint of Title VII discrimination contained in his online review of  
12 Defendant?

13 Yes \_\_\_\_\_

14 No \_\_\_\_\_

15 If your answers to Question 1 and Question 2 are “YES,” Plaintiffs have proven retaliation under Title  
16 VII. Whether Plaintiffs have proven retaliation under Title VII or not, please go to Question 3.

**RETALIATION – ADA**

17  
18 3. Did Plaintiffs prove by a preponderance of the evidence that Mr. Duane complained of disability  
19 discrimination in his online review of Defendant?

20 Yes \_\_\_\_\_

21 No \_\_\_\_\_

22 If your answer to Question 3 was “YES,” please go to Question 4; if your answer was “NO,” please go to  
23 Question 5.

24 4. Did Plaintiffs prove by a preponderance of the evidence that Defendant terminated his employment  
25 because Mr. Duane complained of disability discrimination in his online review? In other words,  
26 did Plaintiffs prove by a preponderance of the evidence that Defendant would not have terminated  
27 Mr. Duane but for the complaint of disability discrimination contained in his online review of  
28 Defendant?

1 Yes \_\_\_\_\_

2 No \_\_\_\_\_

3 If your answers to Question 3 and Question 4 are “YES,” Plaintiffs have proven retaliation under the  
4 ADA. Whether Plaintiffs have proven retaliation under the ADA or not, please go to Question 5.

5 **DAMAGES**

6 5. If Plaintiffs have proven retaliation under Title VII (you answered “YES” to Question 1 and  
7 Question 2), Plaintiffs have proven retaliation under the ADA (you answered “YES” to Question  
8 3 and Question 4), or Plaintiffs have proven retaliation under both Title VII and the ADA (you  
9 answered “YES” to Question 1, Question 2, Question 3, and Question 4), did Plaintiffs prove by a  
10 preponderance of the evidence that Mr. Duane suffered damages as a result of being retaliated  
11 against by IXL?

12 Yes \_\_\_\_\_

13 No \_\_\_\_\_

14 6. If your answer to question 5 is “YES,” what amount of damages should Plaintiff be awarded, if  
15 any, for past lost earnings and benefits:

16 \_\_\_\_\_ [POTENTIAL STIPULATED AMOUNT] \_\_\_\_\_

17 **TITLE VII DAMAGES ONLY**

18 7. If you answered “YES” to each of Question 1, Question 2 and Question 5 above (damages for Title  
19 VII Retaliation) what is the amount to award as compensation for non-economic damages?

20 \_\_\_\_\_

21 **TITLE VII PUNITIVE DAMAGES ONLY**

22 8. If you answered “YES” to each of Question 1 and Question 2 above (Title VII Retaliation), did  
23 Plaintiffs prove that by terminating Mr. Duane, Defendant engaged in conduct that was malicious,  
24 oppressive, or in reckless indifference to Mr. Duane’s federally protected rights such that  
25 Defendant almost certainly knew what it was doing was wrongful and subject to punishment?

26 Yes \_\_\_\_\_

27 No \_\_\_\_\_

28

1 9. If you answered “Yes” to question 8, how much would you award Plaintiff in punitive damages  
2 for Title VII Retaliation?

3 \_\_\_\_\_  
4

5  
6 Signed: \_\_\_\_\_  
7 Presiding Juror Date

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