

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

DR. MASHA MAXIM,
Plaintiff,

vs.

DENTAL CARE CORP., RODNEY
STEWART, and SCOT THOMPSON,
Defendants.

Civil Action No. 10-0016

JURY INSTRUCTIONS

SCOT THOMPSON,
Counter-Plaintiff,

vs.

DR. MASHA MAXIM,
Counter-Defendant.

TABLE OF CONTENTS

INSTRUCTIONS.....	1
NO. 1 - INTRODUCTION.....	1
NO. 2 - BURDEN OF PROOF.	3
NO. 3 - DEFINITION OF EVIDENCE.....	4
NO. 4 - TESTIMONY OF WITNESSES.....	6
NO. 5 - DR. MAXIM’S CLAIMS: FORCED RESIGNATION.....	8
NO. 6 - DR. MAXIM’S CLAIM OF BREACH OF CONTRACT.	9
NO. 7 - DR. MAXIM’S CLAIM OF DISCHARGE IN VIOLATION OF PUBLIC POLICY.	11
NO. 8 - MR. THOMPSON’S CLAIM OF BATTERY.....	13
NO. 9 - DAMAGES: IN GENERAL.	14
NO. 10 - DAMAGES: COMPENSATORY DAMAGES.....	15
NO. 11 - DAMAGES: NOMINAL DAMAGES.....	17
NO. 12 - DAMAGES: PUNITIVE DAMAGES.....	18
NO. 13 - OUTLINE OF TRIAL.	20
NO. 14 - OBJECTIONS.	21
NO. 15 - BENCH CONFERENCES.....	22
NO. 16 - NOTE-TAKING.....	23

NO. 17 - CONDUCT OF JURORS DURING TRIAL..... 24
NO. 18 - DELIBERATIONS..... 27

VERDICT FORM

INSTRUCTION NO. 1 - INTRODUCTION

Congratulations on your selection as jurors!

These Instructions are to help you better understand the trial and your role in it.

As I explained during jury selection, plaintiff Dr. Masha Maxim seeks damages for “breach of contract” and “discharge in violation of public policy” against defendants Dental Care Corporation, Rodney Stewart, and Scot Thompson, arising from the early termination of her employment with Dental Care Corporation on May 24, 2010. Scot Thompson also asserts a claim of “battery” against Dr. Maxim for allegedly hitting him as she left Dental Care’s clinic on May 24, 2010.

You have been chosen and sworn as jurors to try the issues of fact related to the Dr. Maxim’s and Mr. Thompson’s claims. In making your decisions, you are the sole judges of the facts. You must not decide this case based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your individual evaluation of that evidence, your reason and common sense, and these instructions. Do not take anything that I have said or done or that I may say or do as indicating what I think of the evidence or what I think your verdict should be.

You should consider and decide this case as an action between persons of equal standing in the community, of equal worth, and holding the same or similar stations in life. All persons and entities, including plaintiff Dr. Masha Maxim and defendants Dental Care Corporation, Rodney Stewart, and Scot Thompson, stand equal before the law, and each is entitled to the same fair consideration. However, Dental Care Corporation acts only through its employees, agents, directors, and officers and is responsible for the acts of those people performed within the scope of their authority.

Please remember that this case is important to the parties and to the fair administration of justice. Therefore, please be patient, consider all of the evidence, and do not be in a hurry to reach a verdict just to be finished with the case.

You will indicate your verdict in a Verdict Form, a copy of which is attached to these Instructions. A verdict form is simply a written notice of your decision. When you have reached a unanimous verdict, your foreperson will complete one copy of the verdict form by marking the appropriate blank or blanks for each question. You will all sign that copy to show that you agree with the verdict and that it is unanimous. Your foreperson will then bring the signed verdict form to the courtroom when it is time to announce your verdict.

I will explain how you are to determine whether or not Dr. Maxim and Mr. Thompson have proved their claims. Dr. Maxim's and Mr. Thompson's claims consist of "elements," which are the parts of the claims. A party must prove all of the elements of a claim for you to find for that party on that claim. I will explain the "elements" of the claims in these Instructions.

First, however, I must explain some preliminary matters, including the burden of proof, what is evidence, and how you are to treat the testimony of witnesses.

INSTRUCTION NO. 2 - BURDEN OF PROOF

Your verdict depends on what facts have been proved. Facts must be proved “by the greater weight of the evidence.” This burden of proof is sometimes called “the preponderance of the evidence.” Dr. Maxim has the burden of proof on her claims of “breach of contract” and “discharge in violation of public policy.” Mr. Thompson has the burden of proof on his claim of “battery.”

“Proof by the greater weight of the evidence” is proof that a fact is more likely true than not true.

- It does not necessarily depend on which side presented the greater number of witnesses or exhibits
- It requires you to consider all of the evidence and decide which evidence is more convincing or believable
 - For example, you may choose to believe the testimony of one witness, if you find that witness to be convincing, even if a number of other witnesses contradict that witness’s testimony
 - You are free to disbelieve any testimony or other evidence that you do not find convincing or believable.
- If, on any issue in the case, you find that the evidence is equally balanced, then you cannot find that the issue has been proved.

You may have heard of the term “proof beyond a reasonable doubt.” That is a stricter standard, which applies in criminal cases. It does not apply in civil cases, such as this one. Therefore, you should put it out of your minds.

INSTRUCTION NO. 3 - DEFINITION OF EVIDENCE

Evidence is

- Testimony. Testimony may be either “live” or “by deposition.” A deposition is testimony taken under oath before the trial and preserved in writing or on video. Consider that testimony as if it had been given in court.
- Answers to interrogatories. An interrogatory is a written question asked by one party of another, who must answer it under oath in writing. Consider interrogatories and the answers to them as if the questions had been asked and answered here in court.
- Exhibits admitted into evidence. However, just because an exhibit may be shown to you does not mean that it is more important than any other evidence.
- Stipulations, which are agreements between the parties. If the parties stipulate that certain facts are true, then you must treat those facts as having been proved.

Evidence is not

- Testimony that I tell you to disregard
- Exhibits that are not admitted into evidence
- Statements, arguments, questions, and comments by the lawyers
- Objections and rulings on objections
- Anything that you see or hear about this case outside the courtroom.

You may have heard of “direct” or “circumstantial” evidence.

- “Direct” evidence is direct proof of a fact. An example is testimony by a witness about what that witness personally saw or heard or did.

- “Circumstantial” evidence is proof of one or more facts from which you could find another fact. An example is testimony that a witness personally saw a broken window and a brick on the floor from which you could find that the brick broke the window.
- You should consider both kinds of evidence, because the law makes no distinction between their weight. The weight to be given any evidence, whether it is “direct” or “circumstantial,” is for you to decide.

Some evidence may be admitted only for a limited purpose.

- I will tell you if that happens
- I will instruct you on the purposes for which the evidence can and cannot be used.

INSTRUCTION NO. 4 - TESTIMONY OF WITNESSES

You may believe all of what any witness says, only part of it, or none of it. In evaluating a witness's testimony, consider the following:

- the witness's
 - intelligence
 - memory
 - opportunity to have seen and heard what happened
 - motives for testifying
 - interest in the outcome of the case
 - manner while testifying
 - drug or alcohol use or addiction, if any
- the reasonableness of the witness's testimony
- any differences between what the witness says now and said earlier
- any inconsistencies between the witness's testimony and any other evidence that you believe
- whether any inconsistencies are the result of seeing or hearing things differently, actually forgetting things, or innocent mistakes or are, instead, the result of lies or phony memory lapses, and
- any other factors that you find bear on believability or credibility

You should not give any more or less weight to a witness's testimony just because

- The witness is a public official
- The witness is an expert

You may give any witness's opinion whatever weight you think it deserves, but you should consider

- The reasons and perceptions on which the opinion is based
- Any reason that the witness may be biased, and
- All of the other evidence in the case

It is your exclusive right to give any witness's testimony whatever weight you think it deserves.

**INSTRUCTION NO. 5 - DR. MAXIM'S CLAIMS:
FORCED RESIGNATION**

Both of Dr. Maxim's claims have as an element that she was forced to resign from her employment with Dental Care Corporation. A "forced resignation" has the same effect as the employer telling the employee that she is fired.

To prove that she was forced to resign, Dr. Maxim must prove the following by the greater weight of the evidence:

The defendants made Dr. Maxim's working conditions so intolerable that a reasonable person in her position would have felt forced to resign.

Dr. Maxim contends that the following actions by the defendants forced her to resign:

- giving her an unfair performance evaluation
- putting her on probation for a period of time under the direct supervision of a dental assistant, who was to monitor her work, even though she was a licensed dentist
- directing an employee dental assistant to perform orthodontic treatments without her supervision, and against her express objections, thus exposing her to serious potential liability and possible injury to patients.

You must decide whether one or more or none of these actions was sufficient to make Dr. Maxim's working conditions so intolerable that a reasonable person in her position would have felt compelled to resign.

Conduct may be sufficiently intolerable to force an employee to resign, even if it does not breach a specific term of a written contract.

**INSTRUCTION NO. 6 - DR. MAXIM'S CLAIM OF
BREACH OF CONTRACT**

Dr. Maxim's first claim is that the defendants breached her employment contract by forcing her to resign before the end of her term of employment under her contract with Dental Care Corporation. The defendants deny this claim.

To win on her claim of "breach of contract," Dr. Maxim must prove the following elements by the greater weight of the evidence:

One, Dr. Maxim and Dental Care Corporation entered into an employment contract that specified a length of time that Dr. Maxim would remain employed.

The parties agree that Dr. Maxim had a lawful contract with Dental Care Corporation for Dr. Maxim's employment from about March 2009 to March 2011.

Two, the defendants breached the contract by forcing Dr. Maxim to resign before the end of the term of her employment under the contract.

The parties agree that Dr. Maxim's employment ended the morning of May 24, 2010. Dr. Maxim contends that she was forced to resign on that date, as "forced resignation" is explained in Instruction No. 5.

Three, Dr. Maxim was harmed by the early termination of her contract.

You must decide whether or not Dr. Maxim lost income or other benefits to which she would otherwise have been entitled under the contract because she was forced to resign before the end of her term of employment under the contract.

If Dr. Maxim has proved *all* of these elements by the greater weight of the evidence, *then* she is entitled to damages in some amount on her "breach of contract" claim.

**INSTRUCTION NO. 7 - DR. MAXIM'S CLAIM OF
DISCHARGE IN VIOLATION OF PUBLIC POLICY**

Dr. Maxim's third claim is that the defendants discharged her in violation of public policy. The defendants deny this claim.

To win on her claim of "discharge in violation of public policy," Dr. Maxim must prove the following elements by the greater weight of the evidence:

One, Dr. Maxim was employed by Dental Care Corporation.

The parties agree that Dr. Maxim had a lawful contract with Dental Care Corporation for Dr. Maxim's employment from about March 2009 to March 2011.

Two, the defendants forced Dr. Maxim to resign before the end of her term of employment under her contract with Dental Care Corporation.

The parties agree that Dr. Maxim's employment ended the morning of May 24, 2010. Dr. Maxim contends that she was forced to resign on that date, as "forced resignation" is explained in Instruction No. 5.

Three, the defendants forced Dr. Maxim to resign because she engaged in conduct protected by a clear mandate of public policy.

Conduct is protected by public policy if it is consistent with the letter or purpose of a constitutional, statutory, or regulator provision or scheme. Dr. Maxim contends that she was forced to resign in retaliation for the following protected conduct:

- objecting to and acting to halt the practice of providing orthodontic care by staff dental hygienists and/or dental assistants without a dentist's supervision
- objecting to Dental Care's failure to report her income properly to the CNMI Department of Revenue and Tax

You must decide whether one or more of these kinds of conduct was protected by public policy and whether the defendants retaliated against Dr. Maxim for one or more of these kinds of conduct.

Four, Dr. Maxim was harmed by her forced resignation for engaging in protected activity.

You must decide whether or not Dr. Maxim lost income or other benefits to which she would otherwise have been entitled under the contract because she was forced to resign before the end of her term of employment in retaliation for protected activity.

If Dr. Maxim has proved *all* of these elements by the greater weight of the evidence, *then* she is entitled to damages in some amount on her claim of “discharge in violation of public policy.”

INSTRUCTION NO. 8 - MR. THOMPSON'S CLAIM OF BATTERY

Scot Thompson claims that Dr. Maxim committed a “battery” by hitting him on May 24, 2010. Dr. Maxim denies this claim.

To win on his “battery” claim, Mr. Thompson must prove the following elements by the greater weight of the evidence:

One, Dr. Maxim touched Mr. Thompson with the intent to harm or offend him.

Two, Mr. Thompson did not consent to the touching.

Three, Mr. Thompson was harmed or offended by Dr. Maxim's conduct.

Four, a reasonable person in Mr. Thompson's situation would have been offended by the touching.

If Mr. Thompson has proved *all* of these elements by the greater weight of the evidence, *then* he is entitled to damages in some amount on his “battery” claim.

INSTRUCTION NO. 9 - DAMAGES: IN GENERAL

It is my duty to instruct you about the measure of damages. By instructing you on damages, I do not mean to suggest what your verdict should be on any claim.

If you find for Dr. Maxim on a particular claim or for Mr. Thompson on his claim, then you must determine the winning party's damages on that claim.

- “Damages” are the amount of money that will reasonably and fairly compensate an injured party for any injury that you find was caused by the opposing party's conduct
- It is for you to determine what damages, if any, have been proved
- Any award must be based upon evidence and not upon speculation, guesswork, or conjecture.

If Dr. Maxim wins on both of her claims, you must award the full amount of damages proved on each claim, even though Dr. Maxim seeks the same items of damages on both claims. I will prevent any “double recovery.” Also, if both Dr. Maxim and Mr. Thompson win on their claims, do not reduce either party's damages by the amount that the other party is entitled to recover. I will take care of any offsets or adjustments in the event that both Dr. Maxim and Mr. Thompson win on some or all of their claims.

INSTRUCTION NO. 10 - DAMAGES: COMPENSATORY DAMAGES

Dr. Maxim's compensatory damages

If you find for Dr. Maxim on her “breach of contract” claim, as explained in Instruction No. 6, or on her claim of “discharge in violation of public policy,” as explained in Instruction No. 7, then you must decide what, if any, damages Dr. Maxim has proved by the greater weight of the evidence resulted from the early termination of her contract. Dr. Maxim seeks damages for “lost income and benefits.” You must decide Dr. Maxim’s damages for “lost income and benefits,” as follows:

- First, you must determine the amount, if any, that Dr. Maxim would have earned up to the end of the contract term, including any benefits and pay increases.
- Second, you must subtract from that amount any other income or benefits that Dr. Maxim has received from other sources prior to the end of the contract term that she would not have received if her contract had been completed.

Mr. Thompson's compensatory damages

If you find for Mr. Thompson on his “battery” claim, as explained in Instruction No. 8, then you must decide what, if any, damages he has proved by the greater weight of the evidence resulted from the battery.

Mr. Thompson seeks damages for “emotional distress.” “Emotional distress” is

- The mental or emotional pain and suffering, if any, that Mr. Thompson experienced as a result of Dr. Maxim’s battery up to the time of trial.

Damages for “emotional distress” cannot be measured by an exact or mathematical standard and do not require Mr. Thompson to present evidence of their monetary value. Thus, in deciding what sum to award as damages for “emotional distress,” consider the following:

- The nature and extent of Mr. Thompson’s injury
- The disability, disfigurement, and loss of enjoyment of life that Mr. Thompson experienced

- The mental, physical, or emotional pain and suffering that Mr. Thompson experienced

Mr. Thompson also seeks damages for “costs of care,” which are the following:

- The value of reasonably necessary medical care, treatment, and services received to the present time

Mr. Thompson also seeks damages for “lost income and benefits,” which are the following:

- The reasonable value of wages, earnings, earning capacity, business opportunities, and employment opportunities that Mr. Thompson has lost to the present time

**INSTRUCTION NO. 11 - DAMAGES:
NOMINAL DAMAGES**

“Nominal damages” are awarded to vindicate a party’s rights, when the violation of those rights has not caused injury that can be valued in monetary terms. If you find for Dr. Maxim or Mr. Thompson on one of his or her claims, but you find that the winning party has failed to prove “compensatory damages” as defined in Instruction No. 10 on that claim, then you must award “nominal damages.” In other words, do not award “nominal damages” on a claim if you award any “compensatory damages” on that claim. “Nominal damages” may not exceed one dollar.

INSTRUCTION NO. 12 - DAMAGES: PUNITIVE DAMAGES

If you find for Dr. Maxim on her claim of “discharge in violation of public policy” or for Mr. Thompson on his claim of “battery,” then you may, but are not required to, award punitive damages on those claims. Punitive damages are not available on Dr. Maxim’s claim of “breach of contract.”

To get punitive damages on a particular claim, the party asserting the claim must prove the following by the greater weight of the evidence:

One, punitive damages should be awarded.

You may award punitive damages only if the defendant acted

- with malice, that is, with ill will, or spite, or for the purpose of injuring the plaintiff

or

- with reckless indifference to the protected rights of the plaintiff, that is, in the face of a perceived risk that its actions would violate the rights of the other party under the law

or

- oppressively, that is, to injure or damage or otherwise violate the rights of the other with unnecessary harshness or severity, such as by the misuse or abuse of authority or power or by taking advantage of some weakness, disability, or misfortune of the other party.

Punitive damages may be awarded even if you award the winning party only nominal, and not compensatory, damages.

Two, the amount of any punitive damages.

You must use reason in setting the amount of any punitive damages. The amount awarded

- must be sufficient to punish the opposing party and to deter similar acts in the future
- must take into account the reprehensibility of the opposing party’s conduct
- must not reflect bias, prejudice, or sympathy toward any party
- must not be set in order to punish the opposing party for harm to anyone other than the injured party

- be reasonably related to the actual harm inflicted on the other party

Punitive damages may not be awarded to compensate a winning party.

INSTRUCTION NO. 13 - OUTLINE OF TRIAL

I will now explain how the trial will proceed.

After I have read all but the last Instruction,

- The lawyers may make opening statements. An opening statement is not evidence, but simply a summary of what the lawyer expects the evidence to be.
- The plaintiff will present evidence and call witnesses and the lawyer for the defendants may cross-examine them.
- The defendants may present evidence and call witnesses, and the lawyers for the plaintiff may cross-examine those witnesses.
- The parties will make their closing arguments to summarize and interpret the evidence for you. Like opening statements, closing arguments are not evidence.
- I will give you the last Instruction, on “deliberations”
- You will retire to deliberate on your verdict.

INSTRUCTION NO. 14 - OBJECTIONS

The lawyers may make objections and motions during the trial that I must rule upon.

- If I sustain an objection to a question before it is answered, do not draw any inferences or conclusions from the question itself
- Do not hold it against a lawyer or a party that a lawyer has made an objection, because lawyers have a duty to object to testimony or other evidence that they believe is not properly admissible

INSTRUCTION NO. 15 - BENCH CONFERENCES

During the trial it may be necessary for me to talk with the lawyers out of your hearing.

- I may hold a bench conference while you are in the courtroom or call a recess
- These conferences are to decide how certain evidence is to be treated, to avoid confusion and error, and to save your valuable time, so please be patient
- We will do our best to keep such conferences short and infrequent

INSTRUCTION NO. 16 - NOTE-TAKING

You are allowed to take notes during the trial if you want to.

- Be sure that your note-taking does not interfere with listening to and considering all the evidence
- Your notes are not necessarily more reliable than your memory or another juror's notes or memory
- Do not discuss your notes with anyone before you begin your deliberations
- Leave your notes on your chair during recesses and at the end of the day
- At the end of trial, you may take your notes with you or leave them to be destroyed
- No one else will ever be allowed to read your notes, unless you let them

If you choose not to take notes, remember that it is your own individual responsibility to listen carefully to the evidence.

An official court reporter is making a record of the trial, but her transcripts will not be available for your use during your deliberations.

**INSTRUCTION NO. 17 - CONDUCT OF JURORS
DURING TRIAL**

You must decide this case *solely* on the evidence and your own observations, experiences, reason, common sense, and the law in these Instructions. You must also keep to yourself any information that you learn in court until it is time to discuss this case with your fellow jurors during deliberations.

To ensure fairness, you must obey the following rules:

- Do not talk among yourselves about this case, or about anyone involved with it, until you go to the jury room to decide on your verdict
- Do not talk with anyone else about this case, or about anyone involved with it, until the trial is over
- When you are outside the courtroom, do not let anyone tell you anything about this case, anyone involved with it, any news story, rumor, or gossip about it, or ask you about your participation in it until the trial is over. If someone should try to talk to you about this case during the trial, please report it to me.
- During the trial, you should not talk to any of the parties, lawyers, or witnesses—even to pass the time of day—so that there is no reason to be suspicious about your fairness. The lawyers, parties, and witnesses are not supposed to talk to you, either.
- You may need to tell your family, friends, teachers, co-workers, or employer about your participation in this trial, so that you can tell them when you must be in court and warn them not to ask you or talk to you

about the case. However, do not provide any information to anyone by any means about this case until after I have accepted your verdict. That means do not talk face-to-face or use any electronic device or media, such as the telephone, a cell or smart phone, Blackberry, PDA, computer, the Internet, any Internet service, any text or instant messaging service, any Internet chat room, blog, or website such as Facebook, MySpace, YouTube, or Twitter, to communicate to anyone any information about this case until I accept your verdict

- Do not do any research—on the Internet, in libraries, in the newspapers, or in any other way—or make any investigation about this case, the law, or the people involved on your own
- Do not visit or view any place discussed in this case and do not use Internet maps or Google Earth or any other program or device to search for or to view any place discussed in the testimony
- Do not read any news stories or articles, in print, on the Internet, or in any “blog,” about this case, or about anyone involved with it, or listen to any radio or television reports about it or about anyone involved with it, or let anyone tell you anything about any such news reports. I assure you that when you have heard all the evidence, you will know more about this case than anyone will learn through the news media—and it will be more accurate
- Do not make up your mind during the trial about what the verdict should be. Keep an open mind until you have had a chance to discuss the evidence with other jurors during deliberations

- Do not decide the case based on “implicit biases.” As we discussed in jury selection, everyone, including me, has feelings, assumptions, perceptions, fears, and stereotypes, that is, “implicit biases,” that we may not be aware of. These hidden thoughts can impact what we see and hear, how we remember what we see and hear, and how we make important decisions. Because you are making very important decisions in this case, I strongly encourage you to evaluate the evidence carefully and to resist jumping to conclusions based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your individual evaluation of that evidence, your reason and common sense, and these instructions. Our system of justice is counting on you to render a fair decision based on the evidence, not on biases
- If, at any time during the trial, you have a problem that you would like to bring to my attention, or if you feel ill or need to go to the restroom, please send a note to the Court Security Officer (CSO), who will give it to me. I want you to be comfortable, so please do not hesitate to tell us about any problem

I will read the remaining Instruction at the end of the evidence.

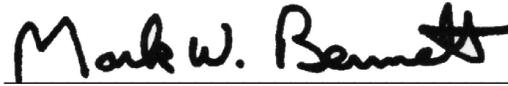
INSTRUCTION NO. 18 - DELIBERATIONS

In conducting your deliberations and returning your verdict, there are certain rules that you must follow.

- When you go to the jury room, select one of your members as your foreperson to preside over your discussions and to speak for you here in court.
- Discuss this case with one another in the jury room to try to reach agreement on the verdict, if you can do so without violence to individual judgment. However, each of you must make your own conscientious decision, after considering all the evidence, discussing it fully with your fellow jurors, and listening to the views of your fellow jurors.
- Do not be afraid to change your opinions if the discussion with other jurors persuades you that you should, but do not come to a decision simply because other jurors think it is right, or simply to reach a verdict.
- Remember that you are not advocates, but judges—judges of the facts. Your sole interest is to seek the truth from the evidence in the case.
- If you need to communicate with me during your deliberations, you may send a note to me through the Court Security Officer, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. *Remember that you should not tell anyone—including me—how your votes stand numerically.*
- Base your verdict solely on the evidence and on the law as I have given it to you in my instructions. Nothing I have said or done is intended to suggest what your verdict should be—that is entirely for you to decide.
- Your verdict on each question submitted must be unanimous.
- Complete and sign one copy of the Verdict Form. The foreperson must bring the signed Verdict Form to the courtroom when it is time to announce your verdict.

- When you have reached a verdict, the foreperson will advise the Court Security Officer that you are ready to return to the courtroom.

DATED this 15th day of August, 2011.

Handwritten signature of Mark W. Bennett in black ink.

MARK W. BENNETT
U. S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

DR. MASHA MAXIM,
Plaintiff,

vs.

DENTAL CARE CORP., RODNEY
STEWART, and SCOT THOMPSON,
Defendants.

Civil Action No. 10-0016

VERDICT FORM

SCOT THOMPSON,
Counter-Plaintiff,

vs.

DR. MASHA MAXIM,
Counter-Defendant.

I. DR. MAXIM'S CLAIMS

On Dr. Maxim's claims, we, the Jury, find as follows:

A. BREACH OF CONTRACT	
Step 1: Verdict	<p>On Dr. Maxim's claim of "breach of contract," as explained in Instruction No. 6, in whose favor do you find? <i>(If you find in favor of Dr. Maxim on this claim, then consider additional Steps in this section of the Verdict Form. However, if you find in favor of the defendants, then do not consider any more Steps in this section of the Verdict Form. Instead, go on to consider your verdict on Dr. Maxim's claim of "discharge in violation of public policy" in Section I.B.</i></p>
_____ Dr. Maxim	_____ The defendants

Step 2: Forced Resignation	<i>If you found in favor of Dr. Maxim in Step 1, please mark one or more kinds of conduct that forced Dr. Maxim to resign, as “forced resignation” is explained in Instruction No. 5.</i>	
	_____ giving her an unfair performance evaluation	
	_____ putting her on probation for a period of time under the direct supervision of a dental assistant, who was to monitor her work, even though she was a licensed dentist	
	_____ directing an employee dental assistant to perform orthodontic treatments without her supervision, and against her express objections, thus exposing her to serious potential liability and possible injury to patients.	
Step 3: Compensatory Damages	<i>If you found in favor of Dr. Maxim in Step 1, please enter the amount, if any, that you award her for “compensatory damages” on this claim, as such damages are explained in Instruction No. 10. (If you find that Dr. Maxim has failed to prove compensatory damages, then you must award “nominal damages” in Step 4.)</i>	
	\$ _____ for lost income and benefits	
Step 4: Nominal Damages	<i>If you found for Dr. Maxim on this claim, but you find that Dr. Maxim has failed to prove “compensatory damages” as defined in Instruction No. 10 on this claim, then you must award “nominal damages,” as explained in Instruction No. 11. (Do not award “nominal damages” if you awarded compensatory damages in Step 3. “Nominal damages” may not exceed \$1).</i>	
	\$ _____ for nominal damages.	
B. DISCHARGE IN VIOLATION OF PUBLIC POLICY		
Step 1: Verdict	<i>On Dr. Maxim’s claim of “discharge in violation of public policy,” as explained in Instruction No. 7, in whose favor do you find? (If you find in favor of Dr. Maxim on this claim, then consider additional Steps in this section of the Verdict Form. However, if you find in favor of the defendants, then do not consider any more Steps in this section of the Verdict Form. Instead, go on to consider your verdict on Mr. Thompson’s claim of “battery” in Section II.</i>	
	_____ Dr. Maxim	_____ The defendants

Step 2: Forced Resignation	<i>If you found in favor of Dr. Maxim in Step 1, please mark one or more kinds of conduct that forced Dr. Maxim to resign, as “forced resignation” is explained in Instruction No. 5.</i>
	_____ giving her an unfair performance evaluation
	_____ putting her on probation for a period of time under the direct supervision of a dental assistant, who was to monitor her work, even though she was a licensed dentist
	_____ directing an employee dental assistant to perform orthodontic treatments without her supervision, and against her express objections, thus exposing her to serious potential liability and possible injury to patients.
Step 3: Protected Conduct	<i>If you found in favor of Dr. Maxim in Step 1, please mark one or more kinds of protected conduct for which you find the defendants forced her to resign.</i>
	_____ objecting to and acting to halt the practice of providing orthodontic care by staff dental hygienists and/or dental assistants without a dentist’s supervision
	_____ objecting to Dental Care's failure to report her income properly to the CNMI Department of Revenue and Tax
Step 4: Compensatory Damages	<i>If you found in favor of Dr. Maxim in Step 1, please enter the amount, if any, that you award her for “compensatory damages” on this claim, as such damages are explained in Instruction No. 10. (If you find that Dr. Maxim has failed to prove compensatory damages, then you must award “nominal damages” in Step 5.)</i>
	\$ _____ for lost income and benefits
Step 5: Nominal Damages	<i>If you found for Dr. Maxim on this claim, but you find that Dr. Maxim has failed to prove “compensatory damages” as defined in Instruction No. 10 on this claim, then you must award “nominal damages,” as explained in Instruction No. 11. (Do not award “nominal damages” if you awarded compensatory damages in Step 4. “Nominal damages” may not exceed \$1).</i>
	\$ _____ for nominal damages.

Step 6: Punitive Damages	<i>If you found in favor of the plaintiffs in Step 1, please enter the amount, if any, that you award her for “punitive damages” on this claim, as such damages are explained in Instruction No. 12.</i>
	\$ _____ for punitive damages

Date: _____ **Time:** _____

_____	_____
Foreperson	Juror
_____	_____
Juror	Juror
_____	_____
Juror	Juror
_____	_____
Juror	Juror

I. MR. THOMPSON'S CLAIM

On Mr. Thompson's claim, we, the Jury, find as follows:

BATTERY							
Step 1: Verdict	<p>On Mr. Thompson's claim of "battery," as explained in Instruction No. 8, in whose favor do you find? <i>(If you find in favor of Mr. Thompson on this claim, then consider additional Steps in this section of the Verdict Form. However, if you find in favor of Dr. Maxim, then do not consider any more Steps in this section of the Verdict Form. Instead, notify the Court Security Officer (CSO) that you have reached a verdict.)</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none; text-align: center;">_____ Mr. Thompson</td> <td style="width: 50%; border: none; text-align: center;">_____ Dr. Maxim</td> </tr> </table>	_____ Mr. Thompson	_____ Dr. Maxim				
_____ Mr. Thompson	_____ Dr. Maxim						
Step 2: Compensatory Damages	<p><i>If you found in favor of Mr. Thompson in Step 1, please enter the amount, if any, that you award him for each item of "compensatory damages" on this claim, as such damages are explained in Instruction No. 10. (If you find that Mr. Thompson has failed to prove compensatory damages, then you must award "nominal damages" in Step 3.)</i></p> <table style="width: 100%; border: none;"> <tr> <td style="border: none;">\$ _____</td> <td style="border: none;">for emotional distress</td> </tr> <tr> <td style="border: none;">\$ _____</td> <td style="border: none;">for costs of care</td> </tr> <tr> <td style="border: none;">\$ _____</td> <td style="border: none;">for lost income</td> </tr> </table>	\$ _____	for emotional distress	\$ _____	for costs of care	\$ _____	for lost income
\$ _____	for emotional distress						
\$ _____	for costs of care						
\$ _____	for lost income						
Step 3: Nominal Damages	<p><i>If you found for Mr. Thompson on this claim, but you find that Mr. Thompson has failed to prove "compensatory damages" as defined in Instruction No. 10 on this claim, then you must award "nominal damages," as explained in Instruction No. 11. (Do not award "nominal damages" if you awarded compensatory damages in Step 2. "Nominal damages" may not exceed \$1).</i></p> <table style="width: 100%; border: none;"> <tr> <td style="border: none;">\$ _____</td> <td style="border: none;">for nominal damages.</td> </tr> </table>	\$ _____	for nominal damages.				
\$ _____	for nominal damages.						
Step 4: Punitive Damages	<p><i>If you found in favor of Mr. Thompson in Step 1, please enter the amount, if any, that you award her for "punitive damages" on this claim, as such damages are explained in Instruction No. 12.</i></p> <table style="width: 100%; border: none;"> <tr> <td style="border: none;">\$ _____</td> <td style="border: none;">for punitive damages</td> </tr> </table>	\$ _____	for punitive damages				
\$ _____	for punitive damages						

Date: _____ **Time:** _____

Foreperson

Juror

