

Jonas

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

GREGG CARMAN,

Plaintiff,

vs.

C3 INC., DBA C3 ENERGY; and DOES 1
through 20, inclusive,

Defendant.

C3, INC., DBA C3 ENERGY,

Cross-Complainant,

vs.

GREGG CARMAN,

Cross-Defendant.

CASE NO. 114-CV-274598

**SPECIAL VERDICT FORMS – COVER
PAGE**

(ENDORSED)
FILED
JUL 25 2018
Clerk of the Court
Superior Court of CA County of Santa Clara
BY _____ **DEPUTY**
M. Flores

You are being given five (5) separate special verdict forms. After all verdict forms have been completed and signed, notify the bailiff that you are ready to present your verdict in the courtroom.

SPECIAL VERDICT FORM FOR MR. CARMAN'S QUANTUM MERUIT CLAIM

Carman v. C3, Case No. 114-CV-274598

We answer the questions submitted to us as follows:

1. Did Mr. Carman render services to C3?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

2. Did Mr. Carman render services for C3 with the reasonable expectation of being paid more commissions for the Hydro-Quebec and Northeast Utilities deals than what C3 provided in the FY 2015 Compensation Plan?

☐ Yes ☒ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

3. Did C3, having reason to believe that Mr. Carman was acting with the expectation of being paid more commissions for the Hydro-Quebec and Northeast Utilities deals than what C3 provided in the FY 2015 Compensation Plan, permit Mr. Carman to act without objection?

☐ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. Did Mr. Carman make fraudulent misrepresentations or falsify a corporate record?

☐ Yes ☐ No

If your answer to question 4 is yes, then answer question 5. If your answer to question 4 is no, then skip to question 6.

5. Was any of this misconduct by Mr. Carman directly related to his dispute regarding additional commissions such that it would be inequitable to grant the relief Mr. Carman seeks?

_____ Yes _____ No

If your answer to question 5 is no, then go to answer 6. If you answered yes, then stop here, answer no further questions, and have the presiding juror sign and date this form.

6. What are Mr. Carman's damages for his quantum meruit claim?

\$ _____

In answering this question, do not reduce or increase your finding because of damages arising from other claims for which you may find C3 or Mr. Carman responsible.

Now have the presiding juror sign and date this form.

Signed: **REDACTED** _____

Dated: 7/25/18

**SPECIAL VERDICT FORM FOR MR. CARMAN'S RETALIATION CLAIM
UNDER MASSACHUSETTS WAGE ACT**

Carman v. C3, Case No. 114-CV-274598

We answer the questions submitted to us as follows:

1. Did Mr. Carman engage in protected activity under the Wage Act by making a complaint to C3 that additional wages were owed while holding a reasonable, good faith belief that such wages were actually owed?

____ Yes ☒ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

2. Was Mr. Carman an employee of C3 when he made this complaint?

____ Yes ____ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

3. Did C3 discharge Mr. Carman?

____ Yes ____ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. Did C3 discharge Mr. Carman because he made this complaint?

____ Yes ____ No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

5. Was Mr. Carman harmed by his discharge?

____ Yes ____ No

If your answer to question 5 is yes, then answer question 6. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

6. Did C3 have another legitimate reason that, standing alone, would have induced it to discharge Mr. Carman anyway?

_____ Yes _____ No

If your answer to question 6 is no, then answer question 7. If you answered yes, stop here, answer no further questions, and have the presiding juror sign and date this form.

7. Did C3 make Mr. Carman an unconditional offer of re-employment, as defined in the Jury Instructions?

_____ Yes _____ No

If your answer to question 7 is no, skip to question 9. If your answer is yes, continue to question

8.

8. Was Mr. Carman's rejection of such an offer reasonable?

_____ Yes _____ No

If your answer to question 8 is yes, skip to question 9. If your answer is no, continue to question 8(a)-(e).

a. What date did C3 make the offer of re-employment? _____

b. What are Mr. Carman's past economic damages as of that date?

\$ _____

c. What are Mr. Carman's past noneconomic damages as of that date?

\$ _____

d. Subtract the amount of compensation that Mr. Carman earned after his employment with C3 ended. \$ _____

e. TOTAL DAMAGES (add 8(b) and 8(c), and then subtract 8(d))

\$ _____

In answering this question, do not reduce or increase your finding because of damages arising from other claims for which you may find C3 or Mr. Carman responsible.

Then go to question 10.

9. Please calculate Mr. Carman's total damages.
- a. What are Mr. Carman's past economic damages? \$ _____
 - b. What are Mr. Carman's past non-economic damages? \$ _____
 - c. Subtract the amount of compensation that Mr. Carman earned after his employment with C3 ended. \$ _____
 - d. TOTAL DAMAGES (add 9(a) and 9(b), and then subtract 9(c))
\$ _____

In answering this question, do not reduce or increase your finding because of damages arising from other claims for which you may find C3 or Mr. Carman responsible.

Go to question 10.

10. Did Mr. Carman make fraudulent misrepresentations or falsify a corporate record?
- _____ Yes _____ No

If your answer to question 10 is yes, then go to question 11. If you answered no, then stop here, answer no further questions, and have the presiding juror sign and date this form.

11. Was any of this misconduct by Mr. Carman directly related to his protected activity such that it would be inequitable to grant the full relief Mr. Carman seeks?
- _____ Yes _____ No

Please stop here, answer no further questions, and have the presiding juror sign and date this form.

Signed: REDACTED

Dated: 7/25/18

**SPECIAL VERDICT FORM FOR MR. CARMAN'S CLAIM FOR WRONGFUL
DISCHARGE IN VIOLATION OF CALIFORNIA PUBLIC POLICY**

Carman v. C3, Case No. 114-CV-274598

We answer the questions submitted to us as follows:

1. Was Mr. Carman employed by C3?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

2. Was Mr. Carman discharged?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

3. Did C3 discharge Mr. Carman because either a:) Mr. Carman made a complaint about C3's failure to pay him additional commissions; or b) C3 desired to avoid paying Mr. Carman additional commissions?

☒ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. Did Mr. Carman hold a reasonable, good faith belief that he was actually entitled to additional commissions at the time he made the complaint?

☐ Yes ☒ No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

5. Did the discharge cause Mr. Carman harm?

☐ Yes ☐ No

If your answer to question 5 is yes, then answer question 6. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

6. Did C3 have another legitimate reason that, standing alone, would have induced it to discharge Mr. Carman anyway?

_____ Yes _____ No

If your answer to question 6 is no, then answer question 7. If you answered yes, stop here, answer no further questions, and have the presiding juror sign and date this form.

7. Would C3 have discharged Mr. Carman anyway under the after-acquired evidence doctrine if it had known that Mr. Carman engaged in misconduct?

_____ Yes _____ No

If your answer to question 7 is no, skip to question 8. If your answer is yes, continue to question 7(a)-(e).

- a. What date did C3 discover the misconduct? _____
- b. What are Mr. Carman's past economic damages as of that date?
\$ _____
- c. What are Mr. Carman's past noneconomic damages as of that date?
\$ _____
- d. Subtract the amount of compensation that Mr. Carman earned after his employment with C3 ended. \$ _____
- e. TOTAL DAMAGES (add 7(b) and 7(c) and then subtract 7(d)) \$ _____

In answering this question, do not reduce or increase your finding because of damages arising from other claims for which you may find C3 or Mr. Carman responsible.

Skip to question 11.

8. Did C3 make Mr. Carman an unconditional offer of re-employment, as defined in the Jury Instructions?

_____ Yes _____ No

If your answer to question 8 is no, skip to question 10. If your answer is yes, continue to question 9.

9. Was Mr. Carman's rejection of such an offer reasonable?

_____ Yes _____ No

If your answer to question 9 is yes, skip to question 10. If your answer is no, continue to question 9(a)-(e).

- a. What date did C3 make the offer of re-employment? _____
- b. What are Mr. Carman's past economic damages as of that date?
\$ _____
- c. What are Mr. Carman's past noneconomic damages as of that date?
\$ _____
- d. Subtract the amount of compensation that Mr. Carman earned after his employment with C3 ended. \$ _____
- e. TOTAL DAMAGES (add 9(b) and 9(c) and then subtract 9(d)) \$ _____

In answering this question, do not reduce or increase your finding because of damages arising from other claims for which you may find C3 or Mr. Carman responsible.

Skip to question 11.

10. Please calculate Mr. Carman's damages.

- a. What is Mr. Carman's past economic loss? \$ _____
- b. What is Mr. Carman's past non-economic loss? \$ _____
- c. Subtract the amount of compensation that Mr. Carman earned after his employment with C3 ended. \$ _____
- d. TOTAL DAMAGES (add 10(a) and 10(b) and then subtract 10(c))
\$ _____

In answering this question, do not reduce or increase your finding because of damages arising from other claims for which you may find C3 or Mr. Carman responsible.

Go to question 11.

11. Did Mr. Carman make fraudulent misrepresentations or falsify a corporate record?

_____ Yes _____ No

If your answer to question 11 is yes, then answer question 12. If you answered no, then skip to question 13.

12. Was any of this misconduct by Mr. Carman directly related to his dispute regarding additional commissions such that it would be inequitable to grant the full relief Mr. Carman seeks?

_____ Yes _____ No

Go to question 13.

13. Did Mr. Carman prove by clear and convincing evidence that C3 acted with malice, oppression, or fraud in discharging his employment?

_____ Yes _____ No

Now have the presiding juror sign and date this form.

Signed: **REDACTED**

Dated: 7/25/18

**SPECIAL VERDICT FORM FOR MR. CARMAN'S CLAIM FOR WRONGFUL
DISCHARGE IN VIOLATION OF CALIFORNIA PUBLIC POLICY**

Carman v. C3, Case No. 114-CV-274598

We answer the questions submitted to us as follows:

1. Was Mr. Carman employed by C3?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

2. Was Mr. Carman discharged?

☒ Yes ☐ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

3. Did C3 discharge Mr. Carman because either a:) Mr. Carman made a complaint about C3's failure to pay him additional commissions; or b) C3 desired to avoid paying Mr. Carman additional commissions?

☒ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. Did Mr. Carman hold a reasonable, good faith belief that he was actually entitled to additional commissions at the time he made the complaint?

☐ Yes ☒ No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

5. Did the discharge cause Mr. Carman harm?

☐ Yes ☐ No

If your answer to question 5 is yes, then answer question 6. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

6. Did C3 have another legitimate reason that, standing alone, would have induced it to discharge Mr. Carman anyway?

_____ Yes _____ No

If your answer to question 6 is no, then answer question 7. If you answered yes, stop here, answer no further questions, and have the presiding juror sign and date this form.

7. Would C3 have discharged Mr. Carman anyway under the after-acquired evidence doctrine if it had known that Mr. Carman engaged in misconduct?

_____ Yes _____ No

If your answer to question 7 is no, skip to question 8. If your answer is yes, continue to question 7(a)-(e).

- a. What date did C3 discover the misconduct? _____
- b. What are Mr. Carman's past economic damages as of that date? \$ _____
- c. What are Mr. Carman's past noneconomic damages as of that date? \$ _____
- d. Subtract the amount of compensation that Mr. Carman earned after his employment with C3 ended. \$ _____
- e. TOTAL DAMAGES (add 7(b) and 7(c) and then subtract 7(d)) \$ _____

In answering this question, do not reduce or increase your finding because of damages arising from other claims for which you may find C3 or Mr. Carman responsible.

Skip to question 11.

8. Did C3 make Mr. Carman an unconditional offer of re-employment, as defined in the Jury Instructions?

_____ Yes _____ No

If your answer to question 8 is no, skip to question 10. If your answer is yes, continue to question 9.

9. Was Mr. Carman's rejection of such an offer reasonable?

_____ Yes _____ No

If your answer to question 9 is yes, skip to question 10. If your answer is no, continue to question 9(a)-(e).

- a. What date did C3 make the offer of re-employment? _____
- b. What are Mr. Carman's past economic damages as of that date? \$ _____
- c. What are Mr. Carman's past noneconomic damages as of that date? \$ _____
- d. Subtract the amount of compensation that Mr. Carman earned after his employment with C3 ended. \$ _____
- e. TOTAL DAMAGES (add 9(b) and 9(c) and then subtract 9(d)) \$ _____

In answering this question, do not reduce or increase your finding because of damages arising from other claims for which you may find C3 or Mr. Carman responsible.

Skip to question 11.

10. Please calculate Mr. Carman's damages.

- a. What is Mr. Carman's past economic loss? \$ _____
- b. What is Mr. Carman's past non-economic loss? \$ _____
- c. Subtract the amount of compensation that Mr. Carman earned after his employment with C3 ended. \$ _____
- d. TOTAL DAMAGES (add 10(a) and 10(b) and then subtract 10(c)) \$ _____

In answering this question, do not reduce or increase your finding because of damages arising from other claims for which you may find C3 or Mr. Carman responsible.

Go to question 11.

11. Did Mr. Carman make fraudulent misrepresentations or falsify a corporate record?
- _____ Yes _____ No

If your answer to question 11 is yes, then answer question 12. If you answered no, then skip to question 13.

12. Was any of this misconduct by Mr. Carman directly related to his dispute regarding additional commissions such that it would be inequitable to grant the full relief Mr. Carman seeks?

____ Yes ____ No

Go to question 13.

13. Did Mr. Carman prove by clear and convincing evidence that C3 acted with malice, oppression, or fraud in discharging his employment?

____ Yes ____ No

Now have the presiding juror sign and date this form.

Sig **REDACTED**

Presiding Juror

Dated: 7/25/18

**SPECIAL VERDICT FORM FOR C3'S
INTENTIONAL MISREPRESENTATION CLAIM**

Carman v. C3, Case No. 114-CV-274598

We answer the questions submitted to us as follows:

1. Did Mr. Carman make a false representation of fact to C3 that Northeast Utilities approved the "Initial Go-Live Date"?

____ Yes ☒ No

Continue to question 2.

2. Did Mr. Carman make a false representation of fact to C3 that the document attached to Exhibit 189 was the final project schedule that had been approved by Northeast Utilities?

____ Yes ☒ No

If your answer to question 1 or question 2 is yes, then answer question 3. If you answered no to both questions 1 and 2, stop here, answer no further questions, and have the presiding juror sign and date this form.

3. When Mr. Carman made this misrepresentation, did he either: a) know his representation was false; or b) make his representation recklessly and without regard for its truth?

____ Yes ____ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. Did Mr. Carman intend that C3 rely on the representation?

____ Yes ____ No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

5. Did C3 reasonably rely on the representation?

____ Yes ____ No

If your answer to question 5 is yes, then answer question 6. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

6. Was C3 harmed by the representation?

____ Yes ____ No

If your answer to question 6 is yes, then answer question 7. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

7. What are C3's damages for intentional misrepresentation?

\$ _____

In answering this question, do not reduce or increase your finding because of damages arising from other claims for which you may find C3 or Mr. Carman responsible.

Now have the presiding juror sign and date this form.

Signed: _____

REDACTED

Dated: 7/25/18

SPECIAL VERDICT FORM FOR C3'S BREACH OF DUTY OF LOYALTY CLAIM

Carman v. C3, Case No. 114-CV-274598

We answer the questions submitted to us as follows:

1. Was Mr. Carman C3's employee?

☒ Yes ☐ No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

2. Did Mr. Carman breach his duty of loyalty to C3 by providing information to a competitor where either: a) the information was confidential; or b) the providing of information was done for the purpose of competing with C3?

☐ Yes ☒ No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

3. Was C3 harmed thereby?

☐ Yes ☐ No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. What are C3's damages for this breach of the duty of loyalty claim? (If you award any damages, it must be nominal damages of \$1.)

\$ _____

Now have the presiding juror sign and date the verdict form.

Signed

REDACTED

Dated: 7/25/18