PUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1495

CHRISTOPHER JOHN BILLESDON,

Plaintiff – Appellee,

v.

WELLS FARGO SECURITIES, LLC,

Defendant – Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Frank D. Whitney, Senior District Judge. (3:23-cv-00160-FDW-SCR)

Argued: May 5, 2026 Decided: August 21, 2026

Before WILKINSON, RICHARDSON, and BERNER, Circuit Judges

Affirmed in part, reversed in part, and remanded by published opinion. Judge Richardson wrote the opinion, in which Judge Wilkinson joined. Judge Berner wrote a separate opinion concurring in part, concurring in the judgment with respect to Part II.B, and dissenting from Parts II.D and III.A.

ARGUED: Stephen John Petrany, JONES DAY, Atlanta, Georgia, for Appellant. L. Michelle Gessner, GESSNERLAW, PLLC, Charlotte, North Carolina, for Appellee. **ON BRIEF:** David Phillips, San Diego, California, Christian Bashi, New York, New York, Jeffrey R. Johnson, JONES DAY, Washington, D.C., Terri L. Chase, JONES DAY, Miami, Florida, for Appellant.

RICHARDSON, Circuit Judge:

Christopher Billesdon sued his former employer, Wells Fargo Securities, claiming Wells Fargo violated North Carolina law and the Americans with Disabilities Act by denying him a reasonable accommodation and terminating him because of his disability and his accommodation request. A jury agreed and awarded him more than $22 million. On appeal, Wells Fargo challenges the jury's verdict and award. Though the bar to overturning a jury verdict is high, Wells Fargo's legal arguments clear it for three of the four claims. But on the claim of retaliatory discharge, Wells Fargo presents us only with arguments that belong in front of a jury. That is insufficient. So we affirm the portion of the award that the retaliation claim alone sustains.

I. BACKGROUND

A. Factual Background

For almost three decades, Christopher Billesdon worked for Wells Fargo Securities. Throughout that time, he managed a disability: a paralyzed bladder and colon. Early in his career, he managed it with minimal medical intervention. He disclosed this disability to coworkers early on. "Everybody . . . knew." J.A. 441.

For many years, Billesdon managed his disability without an accommodation. And his disability did not define his career. Billesdon rose from intern to managing director and moved from the company's headquarters in Charlotte, North Carolina, to start a new office in California and head West Coast sales.

But the way he had long managed his disability had severe health consequences. Around 2017, after a series of infections and a hospitalization, doctors told him he needed

to begin using a catheter to empty his bladder and laxatives to empty his bowels. The new protocol made his disability more visible, and made his bathroom needs unpredictable in timing and urgent when they arose. So Billesdon promptly told his then-supervisor, Brian Ferrell, that he would need to sporadically step away from his desk during the workday. Ferrell accommodated his request. Billesdon's coworkers in the California office also knew about his changed protocol and shared the "unwritten understanding" that Billesdon would always have access to a bathroom stall when he needed it. J.A. 451.

Billesdon's new protocol was difficult to navigate in the office. The move to remote work during COVID was a "big blessing" for Billesdon because he could "work right next to a restroom." J.A. 541. Rather than stepping away from his desk for an hour or more while his medications worked through his system, he could work from his bathroom and "never have to wait on an overloaded bathroom" or "worry about having an accident at work." J.A. 541.

While the office remained closed, Billesdon considered moving back to the firm's Charlotte headquarters, where he could be closer to leadership and improve his promotion chances. But the Charlotte office was very large, with only seventeen bathroom stalls for the approximately 500 men who worked on the trading floor. Ferrell assured him that on days Billesdon needed laxatives, he could work from home. So Billesdon relocated his family to Charlotte in August 2020. Like previous years, his performance in 2020 exceeded expectations and earned him a bonus in the millions, on top of his $400,000 salary.

The summer of 2021 brought three major changes. First, weak financial markets prompted Wells Fargo to begin a reduction in force. By late summer, senior management—John Templeton, Christopher Iannuzzi, and Jennifer Doyle[1]—began compiling a "theoretical list" of the "most expensive" sales managing directors to cut, which included Billesdon. J.A. 746. In August, senior management selected one name from that list, John Fitzhugh, and began preparing the formal business case for his discharge. Second, Wells Fargo announced a return-to-office date. Third, Billesdon's longtime manager, Ferrell, left the firm, and Billesdon began reporting to Templeton, Iannuzzi, and Doyle. They knew that Billesdon's disability occasionally required him to work from home and were open to giving him "some flexibility" once everyone returned to the office. J.A. 762. But Billesdon did not have the same rapport with them that he had with Ferrell, and he worried that an informal, *ad hoc* arrangement would force him to seek permission each time his symptoms flared up. So on August 31, 2021, Billesdon formally requested an accommodation to work from home permanently.

In late October, Billesdon received an acknowledgment from Joanne Davis, an accommodations management consultant with Wells Fargo. Davis also notified Billesdon's new supervisor, Templeton, about his request. Templeton told Davis to hold off on asking Billesdon about the scope of the accommodation and escalated the matter to Iannuzzi, who reacted to the request with surprise and skepticism. Templeton and Iannuzzi then asked Davis whether accommodations management was new to Wells Fargo and

[1] During the relevant time, Templeton reported to Iannuzzi, who reported to Doyle.

whether legal was involved. They questioned "why [Billesdon] hadn't brought forth that request before," J.A. 360, and "wanted to know what they needed . . . to push[] back" against his request. J.A. 1287. While Davis, Templeton, and Iannuzzi discussed potential in-office accommodations, like giving Billesdon a desk next to a dedicated bathroom stall, they never offered such options to Billesdon, and he never learned about them. Ultimately, Templeton and Iannuzzi believed accommodating Billesdon would only "delay[] the inevitable." J.A. 1283.

In the meantime, Wells Fargo's revenues continued to drop. Around October or November, senior management decided they needed to add a second person to the reduction in force. They chose Billesdon. At trial, the senior managers explained that Billesdon was their most expensive salesperson and that his remaining team members could absorb his workload. Management did not create a separate business case for Billesdon's termination. Instead, on December 6, they added him to Fitzhugh's preexisting business case and submitted it for approval. It was officially approved on December 14, and Wells Fargo planned to discharge Billesdon on February 24, 2022. This timeframe was unusual; the typical lead time for a reduction in force was around five months.

Unaware of this development, Billesdon continued to push for a resolution of his request. By then, Templeton and Iannuzzi had roped in Doyle, who expressed surprise at the request. The trio rejected Davis's suggestion to give Billesdon a remote-work trial period once workers returned to the office. They wanted to "evaluate" which was a "bigger risk": business issues from allowing remote work or denying Billesdon's accommodation request. J.A. 1272.

In late December, Wells Fargo delayed the planned return to office "indefinitely." J.A. 1269. All employees would continue to work from home for the foreseeable future. Davis informed Billesdon that considering this development, senior management felt his "accommodation need" was already "being met." J.A. 1269. Therefore, they would "evaluate the request" once there was "more clarification or guidance regarding the return to office." J.A. 1269. In January 2022, Davis formally closed Billesdon's case. She told Billesdon that when Wells Fargo announced a return-to-office date, he could "open a new [accommodation] case." J.A. 1267. If he did, company policy would allow him to continue working from home while Wells Fargo processed his request.

On February 9, Wells Fargo announced a new return-to-office date: March 14, 2022. On February 24, Wells Fargo terminated Billesdon.[2] Billesdon found new employment with Brean Capital and, later, Academy Securities, but he received much lower pay. By 2023, Wells Fargo had discharged four out of the seven sales managing directors, including all three individuals from the "theoretical list."

B. Legal Proceedings

In March 2023, Billesdon brought claims under the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*, for failure to accommodate, discriminatory discharge, and retaliation. He also claimed Wells Fargo wrongfully discharged him in violation of North Carolina public policy, as set forth in the North Carolina Equal Employment Practices Act. N.C. Gen. Stat. § 143-422.2. These claims proceeded to trial in July 2024.

[2] Davis testified she did not hear from Billesdon or receive another accommodation request from him between February 9 and 24.

Wells Fargo moved for judgment as a matter of law under Federal Rule of Civil Procedure 50(a) at the close of Billesdon's case and again at the close of all the evidence. The district court denied both motions and submitted the claims to the jury. The jury returned a verdict for Billesdon on all claims. It awarded him $6 million in back pay, $14 million in front pay, $100,000 in emotional distress damages, $1 million in punitive damages under the ADA, and $1 million in punitive damages under North Carolina law. Wells Fargo renewed its motion for judgment as a matter of law under Rule 50(b), and, in the alternative, sought a new trial under Rule 59(a) and to amend the judgment under Rule 59(e). Billesdon accepted a remittitur reducing the ADA punitive damages to $300,000 to comply with the statutory cap. 42 U.S.C. § 1981a(b)(3)(D). The district court also amended the judgment to add 8 percent prejudgment interest on the $6 million back-pay award under North Carolina law and stated that the prejudgment interest "will continue until the judgment is satisfied under N.C. Gen. Stat. Section 24-5(b)." J.A. 4203.

Wells Fargo timely appealed, claiming that it is entitled to judgment as a matter of law or a new trial on each claim or, in the alternative, that it is entitled to a remittitur or a new trial on back pay and front pay.

II. LIABILITY[3]

A. Standards Of Review

Judgment as a matter of law is appropriate if "a reasonable jury would not have a legally sufficient evidentiary basis to find for" Billesdon. Fed. R. Civ. P. 50(a). Billesdon

[3] Throughout this opinion, we draw on Title VII case law to interpret analogous provisions of the ADA. The ADA expressly incorporates Title VII's powers, remedies, and

bore the burden of proving that he was the victim of discrimination or retaliation. *Price v. City of Charlotte*, 93 F.3d 1241, 1249 (4th Cir. 1996). So we must reverse where Billesdon "failed to make a showing on an essential element" of a claim.[4] *Id.* (quoting *Singer v. Dungan,* 45 F.3d 823, 826–27 (4th Cir. 1995)). We review *de novo* the district court's denial of judgment as a matter of law. *Doe v. Fairfax Cnty. Sch. Bd.*, 1 F.4th 257, 270 (4th Cir. 2021). In doing so, we "view the evidence in the light most favorable" to Billesdon and "draw all reasonable inferences in [his] favor without weighing the evidence or assessing the witnesses' credibility." *Id.* (quoting *Baynard v. Malone*, 268 F.3d 228, 234–35 (4th Cir. 2001)); *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133, 150 (2000). To avoid supplanting the jury as factfinder, we "give credence to the evidence favoring [Billesdon]" and "disregard all evidence favorable to [Wells Fargo] that the jury is not required to believe." *Reeves*, 530 U.S. at 151. But we do credit uncontradicted, unimpeached evidence from disinterested witnesses that supports Wells Fargo. *Id.*

We require district courts to grant a new trial on a claim if "(1) the verdict is against the clear weight of the evidence, or (2) is based upon evidence which is false, or (3) will

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procedures. 42 U.S.C. § 12117(a). And this Court refers to "Title VII precedent in ADA cases." *Fox v. Gen. Motors Corp.*, 247 F.3d 169, 175–76 (4th Cir. 2001).

[4] Because the discrimination and retaliation claims were tried on the merits, the *McDonnell Douglas* burden-shifting framework drops from the case. *See U.S. Postal Serv. Bd. of Governors v. Aikens*, 460 U.S. 711, 714–15 (1983). Instead, the inquiry turns on the ultimate factual question—whether the defendant discriminated or retaliated against the plaintiff—and is based on the "specific proofs and rebuttals of discriminatory" or retaliatory "motivation the parties have introduced." *Jiminez v. Mary Washington Coll.*, 57 F.3d 369, 377 (4th Cir. 1995) (citing *St. Mary's Honor Ctr. v. Hicks*, 509 U.S. 502, 516 (1993)).

result in a miscarriage of justice, even though there may be substantial evidence which would prevent the direction of a verdict." *Doe*, 1 F.4th at 268 (quoting *Minter v. Wells Fargo Bank, N.A.*, 762 F.3d 339, 346 (4th Cir. 2014)); Fed. R. Civ. P. 59(a)(1)(A). On review, we may "weigh the evidence and consider the credibility of witnesses." *Cline v. Wal-Mart Stores, Inc.*, 144 F.3d 294, 301 (4th Cir. 1998). But we respect the district court's denial absent an abuse of discretion. *Id.*

B. Wells Fargo Is Entitled To Judgment As A Matter Of Law On The Failure-To-Accommodate Claim

The ADA prohibits employers from discriminating on the basis of disability, which includes failing to make "reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability." 42 U.S.C. § 12112(b)(5)(A). Wells Fargo contests only whether the evidence permitted the jury to find the company refused to provide Billesdon with a "reasonable accommodation." We agree with Wells Fargo: The evidence presented did not permit such a finding.

We confirm our jurisdiction before reaching the merits. *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986). Standing must exist for each claim and at every stage of the litigation. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021). The party invoking jurisdiction must establish standing's three elements: (1) an injury in fact that is "concrete and particularized" and "actual or imminent," (2) a causal connection between the injury and the "challenged action of the defendant," and (3) redressability by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

"[S]tanding requires a concrete injury even in the context of a statutory violation." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 341 (2016).

Had Billesdon been required to endure even one day in the office, his injury would have been clear. But here, it is undisputed that Billesdon worked from home during the relevant period. So Billesdon instead identifies his injury as the economic loss from his termination. While that injury plainly furnishes standing for the discriminatory and retaliatory discharge claims—wrongful discharge is plainly linked to the loss of one's livelihood—it is not obvious how a refusal to accommodate causes the monetary loss associated with a distinct termination decision. However, Billesdon suggests that Wells Fargo's failure to accommodate him and decision to terminate him were one and the same. Essentially, he argues that after a lengthy accommodation-request process, Wells Fargo decided to terminate him rather than accommodate him, making the termination and failure to accommodate the same action. And Wells Fargo did this without providing a reasonable accommodation in the meantime, instead keeping Billesdon in limbo about his request's status. According to Billesdon, he only received clarity about his requested accommodation when he lost his job.

For standing purposes, we must assume this is a valid legal theory for his failure-to-accommodate claim. *Warth v. Seldin*, 422 U.S. 490, 500 (1975) (noting that "standing in no way depends on the merits of the plaintiff's contention that particular conduct is illegal"); *see Poppleton Now Cmty. Ass'n, Inc. v. La Cite Dev., LLC*, 175 F.4th 455, 462 (4th Cir. 2026). Insofar as Wells Fargo refused his request by terminating him, one can causally link the failure to accommodate to the economic injuries he suffered as a result of

his job loss. Therefore, he has satisfied this threshold inquiry: This is a classic economic injury. *Penegar v. Liberty Mut. Ins. Co.*, 115 F.4th 294, 306 (4th Cir. 2024). And, on his theory, it is fairly traceable to the alleged refusal (through termination) and redressable by damages.

Though this theory supplies our jurisdiction, it fails on the merits. *Poppleton Now*, 175 F.4th at 463 ("That the plaintiffs have standing to bring their [claim], however, does not mean they can succeed on the merits of that claim."). Billesdon pleaded and tried his claim as a refusal to make "reasonable accommodations" under § 12112(b)(5)(A). But his termination-based theory invokes § 12112(b)(5)(B), which separately addresses the denial of an employment opportunity "based on the need . . . to make reasonable accommodation." He never raised a subparagraph (B) claim, and, critically, no such claim was put to the jury.

The two subparagraphs are not interchangeable. Subparagraph (A), which Billesdon invoked, makes it discrimination to "not mak[e] reasonable accommodations to the known physical or mental limitations" of a qualified employee. § 12112(b)(5)(A). It targets an omission and contains no motive element. An employer that fails to accommodate violates (A), regardless of the employer's reasons for doing so, subject only to the undue-hardship defense. In contrast, (A)'s neighbor targets an affirmative act with a motivation: Subparagraph (B) makes it discrimination to "*deny*[] employment opportunities" to a qualified employee "if such denial is *based on* the need . . . to make reasonable accommodation." § 12112(b)(5)(B) (emphasis added). Subparagraph (B) therefore addresses a denial of an employment opportunity *because* accommodation would be required.

Our precedent recognizes this division. In *Tyndall v. Nat'l Educ. Ctrs., Inc.*, the employee's failure-to-accommodate claim was dismissed because she "never made a request for accommodation . . . that [her employer] refused." 31 F.3d 209, 211–12 (4th Cir. 1994). Her separate contention that she was fired out of her employer's "desire to avoid making reasonable accommodations" was resolved where it belonged: under (B), as an action-to-avoid-accommodation claim. *Id.* at 214–15. Provision questions—whether the employer failed to provide an accommodation—fall under the failure-to-accommodate clause, (A). Avoidance-motive questions—whether the employer took an adverse action, like termination, to avoid accommodation—fall under the denial-to-avoid-accommodation clause, (B). Billesdon's theory would collapse the two.[5]

Because Billesdon pleaded and tried only an (A) claim, we ask whether Wells Fargo withheld a reasonable accommodation while Billesdon was employed—not whether it discharged him to avoid accommodating him. A rational jury could not have found for Billesdon. The court instructed the jury that Billesdon bore the burden of proving that Wells Fargo "refused to make [a] reasonable accommodation." J.A. 1146. And the jury

[5] And even if subparagraph (A) could bear that weight, this verdict cannot. Billesdon never pleaded a theory that Wells Fargo fired him to avoid accommodating him. More importantly, the jury was never asked to find one. The court charged the jury to decide whether Wells Fargo "refused to make reasonable accommodation," J.A. 1146, and the only questions submitted about Billesdon's termination asked whether his disability or retaliation caused it. No instruction asked whether Wells Fargo's discharge decision was "based on the need" to accommodate Billesdon. And the evidence of Billesdon's termination came in on the pleaded discharge and retaliation counts, so its admission was not consent to try an issue not raised by the pleadings. Fed. R. Civ. P. 15(b)(2). A judgment must rest on the theory the jury was asked to find, not one reconstructed on appeal. *Jimenez v. DaimlerChrysler Corp.*, 269 F.3d 439, 448 (4th Cir. 2001). Therefore, the theory that gives Billesdon standing cannot give him his verdict.

was told that if Wells Fargo "provided [Billesdon] with a reasonable accommodation, and that [Billesdon] . . . failed to prove otherwise or to accept an offered reasonable accommodation," then he had *not* carried that burden. J.A. 1147–48. And "even if [Wells Fargo] offered the same option to other employees in its workforce," that fact would not make an offered arrangement any less of an accommodation.[6] J.A. 1147.

Measured against the jury instructions, the evidence permitted only one conclusion. Billesdon asked to work from home. From the day he asked until the day he was discharged, he worked from home. Thus, throughout his remaining employment, the workplace arrangement effectively addressed the limitations identified in his request. In January 2022, Wells Fargo closed his accommodation case—not by denying his request, but because under the company's COVID-19 policy at that time, many employees, including Billesdon, were already permitted to work from home indefinitely. So Billesdon was already receiving the accommodation of working from home. Further, Davis told Billesdon that if the company set a definite return-to-office date, he could open a new case, and in the meantime, he could continue to telecommute while any new request was

[6] Any oddity in this statement stems from the divide between colloquial usage and legal terminology. An accommodation, in normal parlance, refers to an "adaptation, adjustment, [or] modification." *Accommodation*, *Oxford English Dictionary* (Online ed. 2026). So one might think an accommodation given to everyone is no accommodation at all; it is just the status quo. But this is incorrect in the ADA context. Legally, "an accommodation is not ineffective" or "not an accommodation at all" just "because it is available to other employees regardless of disability status." *Tartaro-McGowan v. Inova Home Health, LLC*, 91 F.4th 158, 169 (4th Cir. 2024); *see also Yochim v. Carson*, 935 F.3d 586, 592 (7th Cir. 2019). This makes sense in context: The fact that others receive the same accommodation has nothing to do with whether the accommodation works effectively for the individual in question.

processed. On February 9, 2022, the company announced that employees would return to the office on a flexible schedule beginning March 14, 2022. Fifteen days later, Wells Fargo informed Billesdon that he was fired. Billesdon therefore never encountered a workday on which Wells Fargo required him to work under conditions that failed to accommodate his limitations.[7] A reasonable jury could not find that Wells Fargo failed to make an accommodation it continuously provided.

Still, Billesdon argues the jury could have found Wells Fargo "did not provide [him] with a reasonable accommodation," J.A. 1147–48, because Wells Fargo never explicitly granted, implemented, or committed to anything. He asked for permanent remote work, and all he ever had was indefinite remote work. Since he did not receive a permanent arrangement, the jury could find he received nothing at all. But this argument misunderstands what "making reasonable accommodations" actually means under the ADA. § 12112(b)(5)(A).

The statutory inquiry turns on effectiveness, not labels. Start with the statute's noun: accommodation—the thing the employer must make. The word "accommodation" itself "conveys the need for effectiveness": An accommodation that does not work is no accommodation at all. *US Airways, Inc. v. Barnett*, 535 U.S. 391, 400 (2002). So one could call an accommodation an "effective arrangement." Indeed, an accommodation "modifi[es] . . . the work environment, or . . . the manner or circumstances under which the

[7] Nor can intent fill the gap. The jury heard that the senior managers met the request with hostility, rejected recommended trial periods, and concluded that accommodation would only "delay[] the inevitable." J.A. 1283. That evidence sustains the retaliation verdict. But angst about an accommodation is not the same as denial of one.

position . . . is customarily performed," in order to "enable" an employee to do his job. 29 C.F.R. § 1630.2(o)(1)(ii); *see Barnett*, 535 U.S. at 401 (noting this definition "emphasizes the statutory provision's basic objective"). The statute's examples are all of this kind: restructured jobs, modified schedules, altered equipment, adjusted policies, etc. And the residual clause reaches only "other . . . accommodations" that are "*similar*" to those listed. 42 U.S.C. § 12111(9)(B) (emphasis added).

Here, the arrangement that made Billesdon's work possible—that is, *effective*, and thus an accommodation—was performing his job from home. He identified this arrangement; his physician endorsed it; and he possessed it—not just something like it—every day after his accommodation request and until his termination. True, he did not receive a formal label that this was his "accommodation." Nor did he receive explicit approval for his request. But the statute's verb is "making," not "approving."[8] And it targets "reasonable accommodation," not "accommodation requests." Mere labels cannot change an effective workplace arrangement into an ineffective one (or vice versa).

But effectiveness is not the end of the inquiry. The adjective "reasonable" modifies what "accommodations" the employer must make. "Reasonable" asks for something

[8] Under the ADA, an employer does not need to give an employee his requested accommodation, or even a perfect accommodation, so long as the provided accommodation is effective. *See Tartaro-McGowan*, 91 F.4th at 167. We ask only whether the employer's chosen accommodation is effective because "not even a well-intentioned court may substitute its own judgment for the employer's choice." *Id.* (quoting *Elledge v. Lowe's Home Ctrs., LLC*, 979 F.3d 1004, 1011 (4th Cir. 2020)). This rule tells us what the statute commands, so it binds a jury's verdict no less than a court's judgment. A finding that faults an arrangement that worked in every respect simply because the employee preferred one more feature is not a finding of reasonableness the ADA recognizes.

beyond an arrangement's effectiveness for a given employee. It requires considering the arrangement's impact on the employer—whether the arrangement is plausible "in the run of cases" and what it may exact from the business or other employees. *Barnett*, 535 U.S. at 401.

Note that neither "effective" nor "reasonable" reveals how much assurance about the future should come with a provided arrangement. This is not to say an accommodation's duration is necessarily irrelevant. But even an arrangement made with a presumption of permanence lasts only so long as it remains effective and reasonable in light of the job, the employee's limitations, and the employer's operations. Billesdon's "indefinite" arrangement operates the same way, remaining in place until circumstances require renewed consideration. So whether one calls it "permanent" or "indefinite," telework before Billesdon's termination meant the same thing in practice: same work environment, same access to a bathroom, and, critically, same enabled performance of his role. Had the return-to-office date arrived while Billesdon was still employed, Wells Fargo's duty would have been identical under either the "permanent" or "indefinite" label: Provide an effective arrangement or prove undue hardship. Calling the arrangement "permanent" would not have changed how telework effectively met Billesdon's limitations before his discharge. Nor would it have converted an ineffective work-from-home arrangement into an effective one. When the substance of the arrangements under the two labels converges, a verdict cannot rest on the choice of label.

The ADA provides for accommodations so qualified employees can do their jobs. It does not require Wells Fargo to additionally provide advance, irrevocable assurances

about how long that arrangement would remain in place when circumstances changed. Every day that Billesdon worked from home, his arrangement was effective.[9] Section 12112(b)(5)(A) asks nothing more, because the provision only requires an arrangement that makes work possible—not a promise that the arrangement will never be revisited.

Accordingly, we reverse the district court and remand for entry of judgment as a matter of law for Wells Fargo on the failure-to-accommodate claim.[10]

Whether Wells Fargo's decision to terminate Billesdon was wrongful for some other reason is the subject of his retaliatory and discriminatory discharge claims. *See Jones v. Sumser Ret. Vill.*, 209 F.3d 851, 854 (6th Cir. 2000) ("A termination claim differs in kind and date from an accommodation claim.").[11] We address those next.

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[9] Once the telework accommodation was provided, termination does not undo its provision and independently supply the § 12112(b)(5)(A) violation. *Cf. King v. Steward Trumbull Mem. Hosp., Inc.*, 30 F.4th 551, 567–68 (6th Cir. 2022) (holding that termination during a *leave of absence* withheld an accommodation, because that arrangement can only be effective if it holds the position open for the employee's return). On this record, the discharge ended the employment relationship; it did not withhold the benefit of an accommodation owed to Billesdon.

[10] Billesdon's remaining theory—that Wells Fargo's bad faith in the "interactive process" itself completes the claim—fails twice over. An employer's process failures matter only insofar as they result in the failure to provide a reasonable accommodation. *Wilson v. Dollar Gen. Corp.*, 717 F.3d 337, 346–47 (4th Cir. 2013). No such failure occurred here. And the district court declined to submit a freestanding interactive-process theory to the jury. A verdict cannot rest on a theory the jury was never asked to find.

[11] These claims require distinct proof. A disparate-treatment (or retaliation) claim requires an adverse action following from a protected status (or protected act); it does not require the plaintiff to show any accommodation was denied or even warranted. As noted above, a failure-to-accommodate claim, by contrast, challenges the employer's withholding of an accommodation; it does not require an adverse action. *See Jacobs v. N.C. Admin. Off. of the Cts.*, 780 F.3d 562, 572, 579 (4th Cir. 2015). Though a set of facts can sometimes satisfy all three, this record does not.

C. The District Court Correctly Denied Wells Fargo's Motions On Billesdon's ADA Retaliation Claim

The ADA prevents an employer from retaliating against an employee because that employee requested an accommodation. 42 U.S.C. § 12203(a); *Jacobs*, 780 F.3d at 577. Wells Fargo contests only whether Billesdon proved causation. A reasonable jury could find, and the clear weight of the evidence does not refute finding, that Billesdon's remote-work accommodation request was a but-for cause of his discharge. *Lashley v. Spartanburg Methodist Coll.*, 66 F.4th 168, 176 (4th Cir. 2023). So Wells Fargo is not entitled to judgment as a matter of law or a new trial on the retaliation claim.

The record contains substantial circumstantial evidence of retaliatory motivation. The timeline alone supports finding causation. *Kelly v. Town of Abingdon*, 90 F.4th 158, 170 n.8 (4th Cir. 2024). The senior managers—Templeton, Iannuzzi, and Doyle—learned of Billesdon's accommodation request in late October. Soon thereafter—by "October, November, somewhere in there," according to Doyle—they decided to add Billesdon to the planned reduction in force. J.A. 749. By November 3, Templeton and Iannuzzi had concluded that giving Billesdon an accommodation trial period would only "delay[] the inevitable." J.A. 1283. Preparation of formal discharge documentation followed in early December. This process was accelerated: Billesdon received notice of his termination approximately two months after management added him to the business case, compared to a typical lead time of at least five months. Against that baseline, the jury could view this compressed timeline as sufficient evidence that the request precipitated the termination

decision. *Cf. Roberts v. Glenn Indus. Grp., Inc.*, 998 F.3d 111, 127 (4th Cir. 2021); *King v. Rumsfeld*, 328 F.3d 145, 151 n.5 (4th Cir. 2003).

The senior managers' actions and attitudes during the intervening period reinforce this causal connection. *See Lettieri v. Equant, Inc.*, 478 F.3d 640, 650–51 (4th Cir. 2007) ("[E]vidence of recurring retaliatory animus during the intervening period" between the protected activity and retaliatory conduct "can be sufficient to satisfy the element of causation."). Billesdon presented evidence from which a jury could infer that their treatment of Billesdon changed markedly after they learned about his request. Templeton had previously told Billesdon that he would receive a stellar review for 2021. That fall, despite Billesdon's record sales numbers, Templeton downgraded Billesdon's evaluation from "exceeds" expectations to "meets" expectations. J.A. 474–76. And the senior managers largely "iced" him out of conversations after he made the request. J.A. 478.

The senior managers also reacted to the request with skepticism and dismissiveness. They questioned whether the accommodations-management-consulting team was new to the company, expressed shock that Billesdon sought a formal accommodation after obtaining informal arrangements, and pushed back on granting a trial period. The jury was entitled to weigh the decision-makers' statements, their changed treatment of Billesdon, the compressed timeline, and their hesitation to communicate and make a decision regarding accommodating Billesdon once universal telework ended. On this record, the jury could reasonably conclude that Billesdon's termination was retaliation dressed up as a business decision.

Wells Fargo claims it supplied three categories of evidence that conclusively negated Billesdon's proof. Not so.

First, Wells Fargo points to the senior managers' testimony that they discussed potentially discharging Billesdon—one of the "most expensive" managing directors—for cost reasons months before they learned about his accommodation request. Wells Fargo claims that because no evidence called this testimony's veracity into question, the jury must take it as true.[12] So if the senior managers simply "proceed[ed] along lines previously contemplated, though not yet definitively determined," there can be "no evidence whatever of causality." *Clark Cnty. Sch. Dist. v. Breeden*, 532 U.S. 268, 272 (2001). But the jury could have credited this testimony and *still* determined that Wells Fargo failed to "conclusively reveal[] some other, nondiscriminatory reason for [its] decision." *Reeves*, 530 U.S. at 148; *cf. Dennis v. Columbia Colleton Med. Ctr., Inc.*, 290 F.3d 639, 648–49 (4th Cir. 2002).

The Supreme Court's decision in *Breeden* does not help Wells Fargo. There, the employee relied on one fact to establish retaliatory causation: the temporal proximity between her filing a lawsuit on April 1 and her employer's statement to a union representative on April 10 about possible plans to change her role. 532 U.S. at 271–72.

[12] *Reeves* does not compel the jury to believe the decision-makers' account of their own motive in making the allegedly unlawful decision. *Reeves* requires us to credit only "uncontradicted and unimpeached" evidence that "comes from disinterested witnesses." 530 U.S. at 151. The senior managers were neither disinterested nor unimpeached: They made the decision this Court now reviews, and Davis's near-contemporaneous notes cataloging these events cut against their account. The jury was free to set their testimony aside.

The problem? The employer did not learn about the suit until April 11. *Id.* at 272. So the statement to the union representative, without more, could not support finding retaliation caused her job transfer. In contrast, here, there is evidence of retaliatory motive arising *after* decision-makers learned about Billesdon's request. What's more, the *Breeden* employer's decision to discuss the possible job transfer with a third party, who had no decision-making authority, suggests somewhat concrete job-transfer plans were in place. Whereas here, the jury heard that Billesdon was included on a "theoretical list" of reduction-in-force candidates. While a jury *might* have found such evidence showed lack of retaliatory motive, this evidence does not compel that conclusion. The evidence also permits a finding that there was no "previously planned" employment action but only vague considerations of one, and that the decision to terminate Billesdon crystallized only after senior management learned of his accommodation request. *Breeden*, 532 U.S. at 272. So a jury could have found that Wells Fargo both flirted with the idea of terminating Billesdon for cost reasons *and* moved forward with his discharge in retaliation.

Second, Wells Fargo points to layoffs of similarly situated employees, both before and after Billesdon was discharged. Four of the seven managing directors in sales were terminated, including all three on the senior managers' "theoretical list." This evidence *could* support the inference that Wells Fargo genuinely needed to cut costs. But it doesn't disprove Billesdon's theory. The additional layoffs do not establish that Billesdon would have been discharged *in this particular fashion* but for his request to work remotely. *Cf. Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 570 U.S. 338, 347 (2013) (focusing on whether the "particular event" would have occurred). Billesdon did not have to show that he would

never have been discharged. The jury could credit the business justification for the overall reduction-in-force efforts while still finding that, but for his request, Billesdon would not have been added to Fitzhugh's business case on December 6.

Third, and finally, Wells Fargo highlights its efforts to find a reasonable accommodation for Billesdon. Because a "workable solution may have been right around the corner," Wells Fargo had "no need to terminate [Billesdon's] employment preemptively." Opening Br. 46. Wells Fargo's own framing—"may have been"—concedes that this is only an inference a jury may have drawn. The jury was entitled to reject that inference. The evidence showed that though the senior managers proposed an in-office alternative to Davis that may have worked for Billesdon, they never communicated that alternative to Billesdon, much less offered it.

In short, these are arguments that belong before a jury. Indeed, Wells Fargo presented them to the jury. The jury disagreed. It did not have to ignore unimpeached evidence or act irrationally to reach its verdict; it could have credited this evidence and still concluded that Wells Fargo retaliated against Billesdon. None of the evidence compels the conclusions Wells Fargo claims it does. Nor is Wells Fargo's evidence so powerful that it overwhelms the evidence supporting the verdict. These arguments do not entitle Wells Fargo to judgment as a matter of law or a new trial.[13] We affirm the district court's denial of both motions on this claim.

[13] The Rule 59 new-trial motion permits the court to weigh the evidence rather than ask only what a rational jury could infer. Although substantial evidence favored Wells

D. Wells Fargo Is Entitled To Judgment As A Matter Of Law On The ADA And North Carolina Disability-Discharge Claims

The jury returned a verdict for Billesdon on his disability-discrimination claim under the ADA, 42 U.S.C. § 12112(a).[14] It did the same on a materially identical claim under North Carolina law, N.C. Gen. Stat. § 143-422.2.[15] On appeal, Wells Fargo challenges both verdicts on the ground that the evidence could not support a finding that Wells Fargo discharged him *because of his disability*.[16] We agree.

Fargo, substantial evidence also supported the jury's verdict. So the district court did not abuse its discretion in finding the verdict not against the clear weight of the evidence.

[14] "No covered entity shall discriminate against a qualified individual on the basis of disability in regard to . . . [the] discharge of employees."

[15] "It is the public policy of this State to protect and safeguard the right and opportunity of all persons to seek, obtain and hold employment without discrimination or abridgement on account of . . . handicap by employers which regularly employ 15 or more employees." N.C. Gen. Stat. § 143-422.2(a).

While the statute does not create a private cause of action, courts "have applied the [public policy] . . . to common law wrongful discharge claims." *See Smith v. First Union Nat'l Bank*, 202 F.3d 234, 247 (4th Cir. 2000); *Hughes v. Bedsole*, 48 F.3d 1376, 1383 n.6 (4th Cir. 1995).

[16] Billesdon claims that Wells Fargo forfeited any challenge to the jury's verdict on the state-law claim because its opening brief "did not separately analyze" that claim or cite North Carolina law. Response Br. 11. Not so. An opening-brief argument that "essentially subsumes an alternative basis for affirmance" does not abandon it. *Brown v. Nucor Corp.*, 785 F.3d 895, 919 (4th Cir. 2015) (quoting *United States v. Goforth*, 465 F.3d 730, 737 (6th Cir. 2006)). Wells Fargo identified the North Carolina claim, explained that it is governed by the same standards as the federal claim, and argued that Billesdon failed to prove the shared element—but-for-disability causation. That challenge reaches both claims. North Carolina courts "look to federal decisions for guidance in establishing evidentiary standards and principles of law to be applied in discrimination cases," so the state and federal discharge claims rise or fall together. *Perdue*, 999 F.3d at 962 n.5 (quoting *N.C. Dep't of Corr. v. Gibson*, 301 S.E.2d 78, 82 (N.C. 1983)); *see also Hughes*, 48 F.3d at 1383. Billesdon's contrary reading founders on his own trial conduct: *He* proposed the

Billesdon's disability-discrimination claim required him to prove that "his *disability*, not simply his protected action," was a but-for cause of his discharge. *Kelly*, 90 F.4th at 170 (emphasis added); *Gentry v. E. W. Partners Club Mgmt. Co., Inc.*, 816 F.3d 228, 235–36 (4th Cir. 2016); *Perdue v. Sanofi-Aventis U.S.*, 999 F.3d 954, 962 n.5 (4th Cir. 2021). An event can "have multiple but-for causes." *Bostock v. Clayton Cnty.*, 590 U.S. 644, 656 (2020). But each must be independently supported. *Kelly*, 90 F.4th at 170. And "[a]n employer who retaliates against an employee for [engaging in a protected activity] is not necessarily motivated by discriminatory animus." *Id.* The substance of the required showing differs: A discrimination claim demands evidence of motive based on the protected *status*, while a retaliation claim demands evidence of motive based on the protected *act*. The evidence here showed only the latter.

The evidence could not have allowed a reasonable jury to find that Billesdon's *disability* was a but-for cause of his termination. Just as close temporal proximity supports causation, a "lengthy time lapse between the employer becoming aware" of the disability and the discharge "negates" it. *See Dowe v. Total Action Against Poverty in Roanoke Valley*, 145 F.3d 653, 657 (4th Cir. 1998) (in retaliation context); *Breeden*, 532 U.S. at 274 ("Action taken . . . 20 months later suggests, by itself, no causality at all."). Billesdon was disabled throughout his tenure at Wells Fargo. *Cf. DeJarnette v. Corning, Inc.*, 133 F.3d 293, 298 (4th Cir. 1998) (holding that knowledge of the employee's condition when hired cuts against inference that reasons for later firing are pretextual). Templeton knew

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instruction directing that the elements "are the same" under both bodies of law. J.A. 1151. Having tried the claims as one, he cannot split them on appeal.

Billesdon had a medical condition before the request, though he did not know the full extent of Billesdon's disability. Iannuzzi knew Billesdon's disability required the use of catheters years before the request. And Doyle had known about Billesdon's disability for at least a decade. We have often held that a lapse of even two to three years justified summary judgment for the employer. *Dowe*, 145 F.3d at 657–58 (citing cases). Moreover, Billesdon supplied *no* evidence of intentional discrimination during the time Wells Fargo knew about his disability but before he made his request. *See Lettieri*, 478 F.3d at 650. Rather, he insisted that his treatment changed for the worse only after he asked to work from home.

So Billesdon pivots and claims that his disability was a but-for cause because the adverse action occurred after his disability became "operationally salient." Response Br. 30. But his disability had been operationally salient for years without adverse action: Management had long known about his disability and accommodated it through informal flexibility. What changed was his formal request for an accommodation. That timing indicates that the termination was downstream of the protected *act*, not the protected status. Billesdon's argument thus reduces to a claim that the adverse action followed his accommodation request—the premise of a *retaliation* claim. *Kelly*, 90 F.4th at 170. The record contains evidence of hostility to Billesdon's *request*—that is why the retaliation verdict stands. What the record lacks is evidence that management acted because of his *disability*. For two decades the disability was known and accommodated, and it never slowed his rise from intern to managing director. The evidence of animus begins when the request arrives. That sequence supports retaliation, not status discrimination.

Billesdon also claims that retaliation for requesting an accommodation is *per se*

disability discrimination because they are tightly linked: Only those with disabilities need accommodations. *See* Response Br. 31–32. But they are distinct claims under the statute and logically cannot be conflated. Two traits are only "inextricably bound" when discrimination against one *necessarily* requires applying decisional rules based on the other. *Cf. Bostock*, 590 U.S. at 660–61, 667 (holding that sexual orientation and sex are so bound because "an employer who discriminates against homosexual or transgender employees necessarily and intentionally applies sex-based rules"). But an employer can take adverse action against an employee who requests an accommodation solely based on the content of the request itself, and without considering whether the employee is disabled. Such action does not *necessarily* consider the requester's disability status, since any individual—even if he cannot ultimately prove that he satisfies the ADA's definition of disability—can request an accommodation and be protected from retaliation. *Israelitt v. Ent. Servs. LLC*, 78 F.4th 647, 653 (4th Cir. 2023) (noting that a retaliation claim does not require the plaintiff to show he has a "disability" under the ADA).[17] Requesting an

[17] The ADA distinguishes between the act of requesting an accommodation and the substantive entitlement to one.

The act of requesting is broadly protected under § 12203(a), which does not require the plaintiff to ultimately establish that the disability was cognizable under the ADA or that the request was reasonable, as long as the plaintiff made it in good faith. *See Freilich v. Upper Chesapeake Health, Inc.*, 313 F.3d 205, 216 (4th Cir. 2002) (requiring only that the plaintiff show a "reasonable, good faith belief" that the conduct opposed violated the ADA).

The substantive entitlement is narrower, available only to employees who prove disability, among other factors. § 12112(b)(5)(A). So the non-disabled employee cannot subsequently succeed on a failure-to-accommodate claim. *Id.*; *Wilson*, 717 F.3d at 345. Similarly, the employer would not "need . . . to make reasonable accommodation" to a non-disabled employee, precluding liability for denial of employment opportunities under § 12112(b)(5)(B).

accommodation and being disabled are therefore not inextricably bound.[18]

That structural distinction, and the lack of motive evidence specific to Billesdon's disability, entitle Wells Fargo to judgment as a matter of law on this claim. We reverse the district court and remand for entry of judgment as a matter of law for Wells Fargo on the disability-discharge claims.

III. REMEDIES

Billesdon's ADA retaliation claim alone survives. So we must vacate the awards of (1) punitive damages under North Carolina law, (2) punitive damages under the ADA, and (3) emotional-distress damages. *Israelitt*, 78 F.4th at 659–60.

Back and front pay remain available as equitable remedies for retaliation under the ADA. *See Pollard v. E.I. du Pont de Nemours & Co.*, 532 U.S. 843, 849–51 (2001); *Israelitt*, 78 F.4th at 659–60. Both remedy Billesdon's loss of compensation: Back pay remedies his loss between discharge and judgment, and front pay remedies his loss after judgment in lieu of reinstatement. *Pollard*, 532 U.S. at 846. Because the jury's awards of back and front pay rest on the compensation Billesdon lost due to his unlawful discharge, the retaliation verdict alone may support them.

The district court denied Wells Fargo's motion for remittitur on back and front pay. We review the denial of remittitur for abuse of discretion. *Cline*, 144 F.3d at 305. A district court abuses its discretion by upholding a jury verdict that is "against the weight of the

[18] Billesdon has one statutory argument left. He says the ADA treats a discharge "based on the need . . . to make reasonable accommodation" as discrimination on the basis of disability. § 12112(b)(5)(B); Response Br. 30. That much is right. But the theory cannot save this verdict for the reasons discussed above, in Part II.B.

evidence."[19] *Id.* That inquiry calls for a "comparison of the factual record and the verdict to determine their compatibility." *Id.* (quoting *Atlas Food Sys. & Servs., Inc. v. Crane Nat'l Vendors, Inc.*, 99 F.3d 587, 594 (4th Cir. 1996)). We agree that the back-pay award exceeds what the trial record supports. But we affirm the front-pay award.

A. Wells Fargo Is Entitled To Remittitur On The Back-Pay Award

The jury's $6 million back-pay award cannot be reconciled with the trial evidence. Billesdon bore the burden of proving what he lost. His proof yielded only one back-pay computation. At trial, Billesdon's economic expert, Dr. Moore, used demonstratives to explain how he calculated back pay.[20] He confirmed that the demonstratives "explain[ed] the math" behind Billesdon's economic loss. J.A. 630. He explained that his

[19] On appeal, Wells Fargo does not object to the jury's determination of these equitable remedies. Nor could it, having failed to move for a bench trial on the ADA retaliation claim. *See Broadnax v. City of New Haven*, 415 F.3d 265, 271–72 (2d Cir. 2005) (holding that a failure to object to a jury determination is "consent" under Fed. R. Civ. P. 39(c)); *Whiting v. Jackson State Univ.*, 616 F.2d 116, 123 (5th Cir. 1980) (same). We therefore review the awards under the standards applicable to jury verdicts, rather than remanding for consideration in equity. *Cf. Cline*, 144 F.3d at 307; Fed. R. Civ. P. 39(c)(2) (deeming the verdict to have "the same effect as if a jury trial had been a matter of right").

[20] Dr. Moore's report and demonstratives were not admitted into evidence. But his testimony identifying and explaining the calculation displayed on the demonstrative was evidence of his economic-loss opinion. An expert need not read every digit aloud to adopt a calculation that he displays, identifies, and explains while testifying. Rule 611(a) governed this trial, and under it a chart that summarizes an expert's opinion is a permissible aid to comprehension even though the chart itself is not admitted. *See United States v. Janati*, 374 F.3d 263, 273 (4th Cir. 2004) (charts "may include witnesses' conclusions or opinions," and "the opinion of expert witnesses can be summarized on pedagogical charts"); *United States v. Mhana*, 175 F.4th 486, 497 (4th Cir. 2026); *cf.* Fed. R. Evid. 107 (effective Dec. 1, 2024). The court's instructions permitted the jury to consider the demonstratives but barred the jury from treating them as independent evidence or taking it into deliberations; the instructions did not require jurors to forget the admitted testimony that relied on the demonstratives.

demonstrative exhibit showed the back-pay calculation as Billesdon's prior earnings and benefits, less the mitigation from his new employment, from the time he was terminated through the trial. *See* J.A. 627, 631 (describing back-pay calculation and the demonstrative's Table 2). Dr. Moore's demonstrative displayed a single back-pay figure to the jury: $4,225,558. In closing, Billesdon specifically asked for "the number that Dr. Moore gave" the jury, and identified it, saying "[i]t's $4,225,558. That is the backpay lost for Mr. Billesdon."[21] J.A. 1201. So the jury was presented with a specific back-pay calculation but then awarded significantly more.

No permissible inference can explain that back-pay overage. *See Wiener v. AXA Equitable Life Ins. Co.*, 153 F.4th 413, 419 (4th Cir. 2025). Dr. Moore did not testify to conservative assumptions in calculating back pay. Nor did he provide ranges from which the jury could have selected the higher number. *Cf. CPI Sec. Sys., Inc. v. Vivint Smart Home, Inc.*, 145 F.4th 390, 401–03 (4th Cir. 2025) (sustaining award where the jury could have reached the figure by generously crediting the plaintiff's evidence). And while the jury might have found that Billesdon's wages were trending higher, by over $200,000 in some years, it could not reasonably bridge a $1.77 million gap over fewer than three years.[22]

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[21] We do not treat counsel's argument as evidence. But it confirms the natural understanding of Dr. Moore's testimony: The displayed figure was his back-pay calculation.

[22] Nor can deferred compensation support the jury's award. While Billesdon suggests that his own expert, Dr. Moore, omitted deferred compensation from his back-pay calculation, no witness put a dollar figure on that loss. A jury cannot award what the evidence never quantified; the partial dissent's suggestion that the jury "may have"

This case certainly involved a "highly compensated" employee of a large investment bank. J.A. 4200. So the record can support a large back-pay figure. But it cannot support the one awarded. We vacate the back-pay award and grant a new trial on damages, unless Billesdon accepts a remittitur reducing this award to $4,225,558.

B. We Affirm The Award Of Front Pay

Front pay, by contrast, was within the range of evidence presented to the jury. Dr. Moore's testimony, illustrated by his demonstratives, supported a front-pay calculation greater than $28 million. He reached this number by using Billesdon's historical earnings at Wells Fargo to project what he would have earned at Wells Fargo through retirement, mitigated by his earnings at Brean and Academy, and discounted to present value. Wells Fargo cross-examined Dr. Moore on the factors he did not account for, such as market conditions, industry compensation formulas, and income fluctuations. But Dr. Moore also used conservative assumptions: He kept Billesdon's expected earnings from Wells Fargo flat over time while increasing mitigation from his new employment. The jury awarded $14 million—half the estimated amount. Since the jury could have reasonably reached this figure on this record, the district court did not abuse its discretion by denying remittitur.

Wells Fargo challenges the front-pay award based on Billesdon's subsequent employment. First, it claims that front pay is categorically unavailable because Billesdon secured comparable employment at Brean Capital, citing *Dotson v. Pfizer, Inc.*, 558 F.3d 284 (4th Cir. 2009). Alternatively, Wells Fargo argues his subsequent move to Academy

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incorporated deferred compensation into its award describes a guess, not a finding. *See Wiener*, 153 F.4th at 419.

Securities was a refusal of substantially equivalent work that should cut off front pay, citing *Dominic v. Consolidated Edison Co. of New York, Inc.*, 822 F.2d 1249 (2d Cir. 1987). But Wells Fargo failed to preserve its *Dotson* and *Dominic* arguments.

Front pay is an equitable remedy ordinarily committed to the district court's discretion. *Dotson*, 558 F.3d at 300; *see Duke v. Uniroyal Inc.*, 928 F.2d 1413, 1424 (4th Cir. 1991). And *Dotson* and *Dominic* address *equitable considerations* that guide a *court's* discretion to award and adjust front pay. *Dotson*, 558 F.3d at 300 (affirming a discretionary denial of front pay as too speculative, noting the plaintiff had secured comparable work); *Dominic*, 822 F.2d at 1258 (affirming a district court's discretionary, equitable reduction of a jury's front-pay award). But Wells Fargo consented to the *jury* alone deciding front pay. *See supra* n.20. It never asked the district court to decide the equitable remedy, never asked the district court to reserve that balancing for itself, and never asked that the jury somehow be instructed to perform the equitable balancing. Having left front pay to the jury, Wells Fargo cannot obtain appellate review as though the district court had equitably fixed front pay. *Cf. Lexington Furniture Indus., Inc. v. Lexington Co., AB*, No. 22-2993, 2023 WL 8889514, at *2 n.3 (2d Cir. Dec. 26, 2023) (holding defendant, by similar silence, "failed to preserve for appeal any argument based on the [weighing of equitable] factors").[23] The front-pay award stands.

[23] Wells Fargo pressed these cases below only in its post-trial motion. But a post-trial motion tests a consented jury verdict under the governing law; it does not convert the court, after the verdict, into the equitable decision-maker Wells Fargo declined to invoke. The district court did instruct the jury to consider mitigation. On that instruction, the jury could have reasonably determined that Brean Capital was not comparable to Wells Fargo, given the loss of the supporting sales infrastructure Billesdon had built over decades. And

C. We Vacate And Remand The Interest Awards For Determination Using Federal Standards

The district court grounded its award of prejudgment interest in North Carolina law, which makes prejudgment interest mandatory. N.C. Gen. Stat. § 24-5(b). With the state-law verdict now vacated, we must also vacate the prejudgment-interest award and remand for the district court's discretionary determination as to the propriety and amount of prejudgment interest. *Maksymchuk v. Frank*, 987 F.2d 1072, 1077 (4th Cir. 1993) (noting that the "district court's discretion should be exercised bearing in mind the 'make-whole' policy" of the statute).

The district court added that this interest would "continue until the judgment is satisfied," thus also awarding *post*-judgment interest under North Carolina law. J.A. 4203. Federal law governs post-judgment interest. *Hitachi Credit Am. Corp. v. Signet Bank*, 166 F.3d 614, 633 (4th Cir. 1999). We thus vacate the award of post-judgment interest and remand for the district court to apply 28 U.S.C. § 1961(a).

* * *

Billesdon enjoyed a long and successful career at Wells Fargo—until he submitted a formal accommodation request to permanently work from home. The evidence allowed

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though Billesdon left Brean for a lower-paying position at Academy, the jury could have found that move to be a search for—not refusal of—more equivalent work, as Billesdon testified he "left to go to Academy hoping that [he] could build something where [he] would have a better chance of making more money" in the long run. J.A. 590. They heard Dr. Moore testify that Billesdon's compensation at Academy had the potential to exceed his earnings at Brean. The jury could have also credited that Billesdon would have remained with Wells Fargo until retirement, given that he had spent his entire career there. Finally, the jury's award of only half the expert's projected losses cuts against any inference of windfall. *Cf. Duke*, 928 F.2d at 1424.

the jury to find that Wells Fargo retaliated against Billesdon because he requested an accommodation. The jury compensated him accordingly. We do not lightly disturb that on appeal. The other liability verdicts and portions of the relief do not survive. The judgment is

AFFIRMED IN PART,
REVERSED IN PART,
AND REMANDED.

BERNER, Circuit Judge, concurring in part and dissenting in part:

While I concur in part with the majority opinion, I respectfully disagree with the majority's conclusions regarding Christopher Billesdon's federal and state law disability discrimination claims and the jury's calculation of the back-pay award. Wells Fargo has not met the high bar for reversal following a jury verdict on these issues. I therefore dissent with respect to Parts II.D and III.A of the majority opinion. As to Billesdon's failure to accommodate claim, though I concur with the disposition in Part II.B of the majority opinion, I do not agree with its analysis.

Wells Fargo appeals from the denial of its motion for judgment as a matter of law, under Federal Rule of Civil Procedure 50(b), and, in the alternative, for a new trial, under Federal Rule of Civil Procedure 59(a). Though the majority articulates the relevant standards we must apply, it fails to afford the requisite deference to the jury's conclusions that Wells Fargo discriminated against Billesdon on the basis of his disability in violation of the Americans with Disabilities Act (ADA) and the North Carolina Equal Employment Practices Act. The majority also errs in upsetting the jury's calculation, following a five-day trial, of the amount of back pay that Billesdon is entitled to receive. These determinations rely on factual findings, and we cannot substitute our evaluation of the facts for that of the jury.

I.

I begin with our deferential standards of review, given their importance.

Wells Fargo appeals the district court's denial of its Rule 50(b) motion for judgment as a matter of law. We review the district court's denial of a Rule 50(b) motion *de novo*, applying the same deference to the jury's findings as applied by the district court in the first instance. *Burgess v. Goldstein*, 997 F.3d 541, 549 (4th Cir. 2021). "If, viewing the facts in the light most favorable to [Billesdon], there is sufficient evidence for a reasonable jury to have found in [his] favor, we are constrained to affirm the jury verdict." *Id.* (quoting *First Union Com. Corp. v. GATX Cap. Corp.*, 411 F.3d 551, 556 (4th Cir. 2005)). Thus, Wells Fargo faces a "highly deferential standard of review with which we view sufficiency-of-the-evidence challenges." *Younger v. Crowder*, 79 F.4th 373, 381 (4th Cir. 2023). Indeed, we must not disturb a jury's verdict unless "the *only* conclusion a reasonable jury could have reached is one in favor of [Wells Fargo]." *Gautier v. Tams Mgmt., Inc.*, 163 F.4th 786, 792 (4th Cir. 2026) (quoting *Younger*, 79 F.4th at 381) (emphasis added). As I explain, a reasonable jury could have ruled in favor of Billesdon on his disability claims and calculated $6,000,000 as the amount of back pay owed.

Wells Fargo also challenges the district court's denial of its alternative Rule 59(a) motion for a new trial. A new trial is warranted only where the verdict: 1) "is against the clear weight of the evidence," 2) "is based upon evidence which is false," or 3) "will result in a miscarriage of justice, even though there may be substantial evidence which would prevent the direction of a verdict." *Doe v. Fairfax Cnty. Sch. Bd.*, 1 F.4th 257, 268 (4th Cir. 2021) (quoting *Minter v. Wells Fargo Bank, N.A.*, 762 F.3d 339, 346 (4th Cir. 2014)). We review the district court's denial of a Rule 59(a) motion for an abuse of discretion, "'giv[ing] the benefit of every doubt to the judgment of a trial judge' and remembering that

they are best positioned to weigh evidence and consider witness credibility." *Ramaco Res., LLC v. Fed. Ins. Co.*, 74 F.4th 255, 266 (4th Cir. 2023) (quoting *Cline v. Wal-Mart Stores, Inc.*, 144 F.3d 294, 305 (4th Cir. 1998)). Like the jury, the district court had a front-row seat to witness testimony and the presentation of evidence during the five-day trial.

II.

Regarding Billesdon's claims for disability discrimination, sufficient evidence was introduced at trial for a reasonable jury to conclude that Wells Fargo terminated Billesdon because of his disability. The jury heard evidence that the manner in which Wells Fargo terminated Billesdon through a reduction in force (RIF) was irregular. Witnesses testified that, typically, Wells Fargo's RIF protocol required a monthslong waiting period and followed an established process. Wells Fargo did not follow this procedure in terminating Billesdon. A mere two weeks lapsed from the initial decision to terminate Billesdon to his termination. One Wells Fargo employee testified that the employee could not recall a single occasion where the decision to terminate an employee through a RIF was taken so quickly. A reasonable jury could find that this evidence suggests discriminatory motive. *Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252, 267 (1977) (explaining that "[d]epartures from [a] normal procedural sequence also might afford evidence that improper purposes are playing a role"); *Cowgill v. First Data Techs., Inc.*, 41 F.4th 370, 383 (4th Cir. 2022) (noting that employer's "deviat[ion] from its usual procedure" supported a finding of pretext).

Billesdon also introduced evidence that demonstrated his managers' hostility to his disability. In requesting an accommodation, Billesdon shared the details of his disability, including that his medical condition had become increasingly debilitating. The district court also admitted into evidence contemporaneous notes taken by Joanne Davis, an accommodations management consultant at Wells Fargo. These notes show that, after Billesdon told his managers about his need for accommodation, the managers asked Davis "what they needed in regards to pushing back" on the request. Parties' Joint Appendix (J.A.) 1287. Davis's notes also reveal that the managers thought any temporary accommodation "would be delaying the inevitable." *Id.* at 1283. A reasonable jury could find that the phrase "delaying the inevitable" referred to the managers' belief that, regardless of whether the accommodation request was granted, Billesdon would ultimately be terminated. Further, Davis testified that she recommended that Wells Fargo provide Billesdon his requested accommodation for a period of six months, yet the managers rejected her recommendation.

Further, the jury heard evidence that Wells Fargo decided to terminate Billesdon shortly after Billesdon's managers became aware that his disability had worsened to the point that he required accommodation. On the basis of this temporal proximity, a jury could also reasonably infer that a causal connection existed between Billesdon's disability and his termination. *See Jacobs v. N.C. Admin. Off. of the Courts*, 780 F.3d 562, 575 (4th Cir. 2015).

Evidence of the ongoing conversations regarding Billesdon's disability between officials who ultimately terminated his employment, combined with evidence of the

procedural irregularities of the RIF process that followed shortly after Billesdon disclosed his worsened disability, is sufficient for a reasonable jury to find that Billesdon was selected for the RIF because of his disability.

The jury heard this testimony and had an opportunity to evaluate the demeanor of the witnesses. The district court cited the same evidence when it concluded that the record supported the jury's determination that Wells Fargo "discharged [Billesdon] in violation of the ADA and North Carolina public policy[.]" J.A. 4193. This conclusion was not erroneous.

The district court also did not abuse its discretion in denying Wells Fargo's alternative motion for a new trial under Rule 59(a). Specifically, the district court noted that Wells Fargo's "witnesses were impeached with documentary evidence on more than one occasion, and that testimony was sufficient for the jury to call into question their credibility." *Id.* at 4196. Similarly, the district court pointed to Davis's "near-contemporaneous notes detail[ing the] managers' intention to refuse [Billesdon's] accommodation request." *Id.* The district court further noted that the notes "indicated [Billesdon's] managers were skeptical about [Billesdon's] ability to do his job despite his disability and expressed an intent to 'push back.'" *Id.* at 4197. On this basis, the district court ruled that the jury's verdict did not go against the clear weight of the evidence. *Id.* This determination was not an abuse of discretion.

III.

Turning now to the jury's verdict on back pay. In setting aside the jury's back-pay award of $6,000,000, the majority opinion states that the jury was "presented with a specific back-pay calculation" of $4,225,558 that served as a cap. Maj. Op. at 29. Not so. Billesdon's economic expert, Dr. Moore, testified that Billesdon's total economic damages, including both back pay and front pay, amounted to $32,319,373. Dr. Moore never testified to the $4,225,558 figure and there was no evidence introduced at trial that this was the amount Billesdon lost in back pay.

Although this back-pay figure was included in a demonstrative exhibit, the demonstrative was never admitted into evidence. Indeed, the district court explicitly instructed the jury *not* to consider the demonstrative exhibits as evidence. J.A. 1142 ("Certain charts and summaries have been shown to you solely to explain or summarize the facts disclosed by the books, records, and other documents that are in evidence. These charts and summaries are not evidence or proof of any facts. You should determine the facts from the evidence."); *see also* Fed. R. Evid. 107(b) ("An illustrative aid is not evidence and must not be provided to the jury during deliberations [absent consent or court order]."). The district court repeated this admonition when, during deliberations, the jury asked the district court whether they could consider Dr. Moore's demonstrative exhibit, which listed the back-pay figure. The district court again instructed the jury that the demonstrative "was never admitted. Period." J.A. 1256. We must presume the jury followed these instructions. *Al Shimari v. Premier Tech., Inc.*, 170 F.4th 162, 211 (4th Cir. 2026).

The majority also makes much of the fact that Billesdon's counsel referenced the $4,225,558 back-pay figure during closing argument. Counsel's statements, however, do not themselves constitute evidence upon which a jury may rely. *See Mosser v. Fruehauf Corp.*, 940 F.2d 77, 82 (4th Cir. 1991).

Even if we assume, for sake of argument, that the $4,225,558 figure had been introduced as evidence, the jury's back-pay award of $6,000,000 would still be supported by sufficient record evidence. First, Billesdon's W-2 tax forms were admitted into evidence. The W-2s establish that Billesdon earned about $2.3 million per year in taxable compensation. Dr. Moore also explained that Billesdon's compensation increased each year, and that, if Billesdon had stayed with Wells Fargo, his income could have increased to between $2.7 and $2.9 million annually. The jury also heard evidence that Billesdon lost significant deferred compensation as a result of his termination. Dr. Moore had not factored deferred compensation into the back-pay calculation. In awarding $6,000,000 in back pay, the jury may have done so.

The district court "is in the best position to see the witnesses and is intimately familiar with the trial from a perspective this Court cannot have." *Burgess*, 997 F.3d at 555. Here, the district court was deeply familiar with the evidence in this case, having ruled on numerous pretrial motions and presided over the five-day jury trial. The district court did not err in its conclusion that "[t]he record includes ample evidence to support the jury's award[ ] of back pay." J.A. 4200. It is not our role to second-guess the jury's verdict. We may upset a jury verdict only if it is "against the weight of the evidence or based on

evidence which is false." *Cline*, 144 F.3d at 305 (quoting *Atlas Food Sys. & Servs., Inc. v. Crane Nat. Vendors, Inc.*, 99 F.3d 587, 594 (4th Cir. 1996)). Neither is true here.

IV.

Finally, although I do not disagree with the majority's conclusion regarding Billesdon's reasonable accommodation claim, I part ways with the majority's analysis. The majority concludes that a reasonable jury could not find that Wells Fargo failed to accommodate Billesdon because, by virtue of the company's work-from-home policy generally applicable to everyone, "Billesdon was already receiving the accommodation of working from home." Maj. Op. at 13. This, however, was not an accommodation for purposes of the ADA. It was simply the temporary policy for all Wells Fargo employees in response to the COVID-19 crisis. Wells Fargo did not intend for work-from-home to be permanent. On at least two occasions, Wells Fargo did in fact inform its employees that it intended for them to return to the office, including just over two weeks before Billesdon received notice of his termination.

Billesdon sought an accommodation to be permitted to work from home at such time that Wells Fargo employees would inevitably be ordered to return to the office. Wells Fargo never resolved this request. It did not make the requested accommodation, as the majority suggests. Nor, however, did Wells Fargo deny the request, as Billesdon argues. Rather, Wells Fargo terminated Billesdon before his request was resolved.

Billesdon brought his failure to accommodate claim under 42 U.S.C. § 12112(b)(5)(A). Under that section, an employer discriminates against an employee

when it does not "mak[e] reasonable accommodations to the known physical or mental limitations" of the employee. 42 U.S.C. § 12112(b)(5)(A). That is not what happened here. Billesdon was engaged in ongoing conversations with his employer about a possible accommodation. Wells Fargo indicated that his accommodation request would be considered once the return-to-office policy had been announced. During this period of time, Billesdon was able to work from home. Wells Fargo also indicated that Billesdon could continue working from home while it considered a renewed request. Accordingly, because Billesdon's request for accommodation was neither actually nor constructively denied before he was terminated, I agree with the majority that the jury's determination on this claim cannot stand.

I note, however, that, just as the ADA requires employers to make reasonable accommodations in the workplace, it also prohibits them from terminating an employee to avoid doing so. Specifically, 42 U.S.C. § 12112(b)(5)(B) prohibits employers from "denying employment opportunities" to a qualified employee "if such denial is based on the need . . . to make reasonable accommodation." Termination of employment most certainly constitutes a denial of employment opportunities. While the facts of this case could support such a finding, Billesdon did not, as the majority correctly points out, bring a claim under this section of the statute.

* * * * *

For these reasons, and with due respect for my colleagues' differing views, I dissent in part. I would affirm the jury's verdicts on Billesdon's claims of disability discrimination and its back-pay calculation.