

IN THE IOWA DISTRICT COURT FOR WARREN COUNTY

MICHAEL JAMES TODD and
SHERI AMOS,

Plaintiffs,

v.

BASEMENT REPLACEMENT EXPERTS,
INC. d/b/a BASEMENTRX,

Defendant.

CASE NO. CVCV040466

JURY INSTRUCTIONS

MICHAEL JACOBSEN, JUDGE

STATEMENT OF THE CASE

Members of the Jury: In this case, Plaintiffs, Sheri Amos and Michael Todd, claim that Defendant, Basement Replacement Experts, Inc., d/b/a BasementRX, breached a contract between Plaintiffs and Defendant concerning services provided by Defendant to build a basement under the property at issue. The Defendant denies that it breached a contract and asserts that it built the basement as agreed upon.

Do not consider this summary as proof of any claim. Decide the facts from the evidence and apply the law which I will now give you.

INSTRUCTION NO. 1

My duty is to tell you what the law is. Your duty is to accept and apply this law.

You must consider all of the instructions together because no one instruction includes all of the applicable law. The order in which I give these instructions is not important.

Your duty is to decide all fact questions.

As you consider the evidence, do not be influenced by any personal sympathy, bias, prejudices or emotions. It is common to have hidden or implicit thoughts that help us form our opinions. You are making very important decisions in this case. You must evaluate the evidence carefully. You must avoid decisions based on things such as generalizations, gut feelings, prejudices, fears, sympathies, stereotypes, or inward or outward biases. The law demands that you return a just verdict, based solely on the evidence, your reason and common sense, and these instructions. As jurors, your sole duty is to find the truth and do justice.

INSTRUCTION NO. 2

Nothing I have said or done during the trial was intended to give any opinion as to the facts, proof or what your verdict should be.

INSTRUCTION NO. 3

During the trial, the Court has ruled upon objections to evidence which have, from time to time, been made by counsel, and this Court has done so according to the rules of evidence. Such rulings made by the Court are the responsibility of the Court solely, and in your consideration of the case you will give no significance or weight whatever to such rulings, and you will consider only such evidence as has been received before you, and which has not been stricken by the Court.

INSTRUCTION NO. 4

Whenever a party must prove something, they must do so by the preponderance of the evidence.

Preponderance of the evidence is evidence that is more convincing than opposing evidence. Preponderance of the evidence does not depend upon the number of witnesses testifying on one side or the other.

INSTRUCTION NO. 5

You shall base your verdict only upon the evidence and these instructions.

Evidence is:

1. Testimony in person or by deposition.
2. Exhibits received by the court.
3. Any other matter admitted.

Evidence may be direct or circumstantial. The weight to be given to any evidence is for you to decide.

Sometimes during a trial, references are made to pre-trial statements and reports, witnesses' depositions, or other miscellaneous items. Only those things formally offered and received by the court are available to you during your deliberations. Documents or items read from or referred to which were not offered and received into evidence, are not available to you.

The following are not evidence:

1. Statements, arguments, questions and comments by the lawyers.
2. Objections and rulings on objections.
3. Any testimony I told you to disregard.
4. Anything you saw or heard about this case outside the courtroom.

INSTRUCTION NO. 6

You will decide the facts from the evidence. Consider the evidence using your observations, common sense, and experience. You must try to reconcile any conflicts in the evidence; but, if you cannot, you will accept the evidence you find more believable.

In determining the facts, you may have to decide what testimony you believe. You may believe all, part, or none of any witnesses' testimony.

There are many factors which you may consider in deciding what testimony to believe, for example:

1. Whether the testimony is reasonable and consistent with other evidence you believe.
2. The witnesses' appearance, conduct, age, intelligence, memory, and knowledge of the facts; and
3. The witnesses' interest in the trial, their motive, candor, bias, and prejudice.

INSTRUCTION NO. 7

There are two types of evidence, direct evidence and circumstantial evidence. Direct evidence is the evidence of the witness to a fact or facts of which they have knowledge by means of their senses. Circumstantial evidence is the proof of a chain of circumstances pointing to the existence or nonexistence of certain facts.

The law makes no distinction between direct and circumstantial evidence but simply requires that the jury find the facts in accordance with the preponderance of all the evidence in this case, both direct and circumstantial.

INSTRUCTION NO. 8

You have heard evidence claiming a witness made statements before this trial while not under oath which were inconsistent with what the witness said in this trial.

Because the witness did not make the earlier statements under oath, you may use them only to help you decide if you believe the witness.

Decide if the earlier statements were made and whether they were inconsistent with testimony given at trial. You may disregard all or any part of the testimony if you find the statements were made and they were inconsistent with the testimony given at trial, but you are not required to do so.

Do not disregard the testimony if other evidence you believe supports it or if you believe it for any other reason.

INSTRUCTION NO. 9

You have heard evidence claiming a witness made statements before this trial while under oath which were inconsistent with what the witness said in this trial. If you find these statements were made and were inconsistent, then you may consider them as part of the evidence, just as if they had been made at this trial.

You may also use these statements to help you decide if you believe the witness. You may disregard all or any part of the testimony if you find the statements were made and were inconsistent with the testimony given at trial, but you are not required to do so. Do not disregard the trial testimony if other evidence you believe supports it, or if you believe it for any other reason.

INSTRUCTION NO. 10

You have heard evidence claiming that the Plaintiffs and the Defendant made statements before this trial.

If you find such a statement was made, you may regard the statement as evidence in this case.

If you find such a statement was made and was inconsistent with testimony during the trial you may also use the statement as a basis for disregarding all or any part of their testimony during the trial but you are not required to do so. You should not disregard their testimony during the trial if other credible evidence supports it or if you believe it for any other reason.

INSTRUCTION NO. 11

You have heard testimony from persons described as experts. Persons who have become experts in a field because of their education and experience may give their opinion on matters in that field and the reasons for their opinion.

Consider expert testimony just like any other testimony. You may accept it or reject it. You may give it as much weight as you think it deserves, considering the witness' education and experience, the reasons given for the opinion, and all the other evidence in the case.

INSTRUCTION NO. 12

An expert witness was asked to assume certain facts were true and to give an opinion based on that assumption. This is called a hypothetical question. If any fact assumed in the question has not been proved by the evidence, you should decide if that omission affects the value of the opinion.

INSTRUCTION NO. 13

The fact that the Defendant is a corporation should not affect your decision. All persons are equal before the law, and corporations, whether large or small, are entitled to the same fair and conscientious consideration by you as any other person.

INSTRUCTION NO. 14

Plaintiffs must prove all of the following propositions:

1. The parties were capable of contracting;
2. The existence of a contract;
3. The consideration;
4. The terms of the contract;
5. The Plaintiffs have done what the contract requires.
6. The Defendant has breached the contract; and
7. The amount of any damages Defendant has caused.

If the Plaintiffs have failed to prove any of these propositions, the Plaintiffs are not entitled to damages. If the Plaintiffs have proved all of these propositions, the Plaintiffs are entitled to damages in some amount.

INSTRUCTION NO. 15

The conduct of a party is a cause of damage when the damage would not have happened except for the conduct.

INSTRUCTION NO. 16

A person is capable of making a contract unless the person lacked sufficient mental capacity to understand it.

INSTRUCTION NO. 17

The existence of a contract requires a meeting of the minds on the material terms. This means the parties must agree upon the same things in the same sense. You are to determine if a contract existed from the words and acts of the parties, together with all reasonable inferences you may draw from the surrounding circumstances.

INSTRUCTION NO. 18

"Consideration" is either a benefit given or to be given to the person who makes the promise or a detriment experienced or to be experienced by the person to whom the promise is made. Where the contract provides for mutual promises, each promise is a consideration for the other promise.

INSTRUCTION NO. 19

In determining the terms of the contract you may consider the following:

1. The intent of the parties along with a reasonable application of the surrounding circumstances.
2. The intent expressed in the language used prevails over any secret intention of either party.
3. The intent may be shown by the practical construction of a contract by the parties and by the surrounding circumstances.
4. You must attempt to give meaning to all language of a contract. Because an agreement is to be interpreted as a whole, assume that all of the language is necessary. An interpretation which gives a reasonable, effective meaning to all terms is preferred to an interpretation which leaves a part of the contract unreasonable or meaningless.
5. The meaning of a contract is the interpretation a reasonable person would give it if they were acquainted with the circumstances both before and at the time the contract was made.
6. Ambiguous language in a written contract is interpreted against the party who selected it.
7. Where general and specific terms in the contract refer to the same subject, the specific terms control.

INSTRUCTION NO. 20

When a contractor agrees to build, install or perform work, there is an implied agreement that the building, installation or work performed will be done in a reasonably good and workmanlike manner.

INSTRUCTION NO. 21

"Workmanlike manner" is the customary way of doing or performing the work in the community where the work is to be performed. The test of workmanship is not what either party individually expects or would like. It is a performance of the work equal to that customarily done by others in the same trade in the same community for the same type of work.

INSTRUCTION NO. 22

A breach of the contract occurs when a party fails to perform a term of the contract.

INSTRUCTION NO. 23

The measure of damages for breach of contract is an amount that will reimburse Plaintiffs for the loss caused by their reliance on the contract and will place them in as good a position as if the breach had not been made.

The damages you award for breach of contract must be foreseeable or have been reasonably foreseen at the time the parties entered into the contract.

In your consideration of the damages, you may consider the following:

1. The actual incurred and reasonably anticipated costs to demolish and rebuild Plaintiffs' home and foundation to the state it would have been in had BasementRX performed its obligations under the contract; or
2. The actual incurred and reasonably anticipated costs to remove and replace Plaintiffs' home on the existing foundation built by BasementRX; or
3. The reasonable cost anticipated to repair Plaintiffs' home on the foundation built by BasementRX.

INSTRUCTION NO. 24

You may not communicate about this case before reaching your verdict. This includes cell phones, and electronic media such as text messages, Facebook, LinkedIn, YouTube, Twitter, email, etc.

Do not do any research or make any investigation about this case on your own. Do not visit or view any place discussed in this case, and do not use Internet maps or Google Earth or any other program or device to search for or to view any place discussed in the testimony. Also, do not research any information about this case, the law, or the people involved, including the parties, the witnesses, the lawyers, or the judge. This includes using the Internet to research events or people referenced in the trial.

This case will be tried on evidence presented in the courtroom. If you conduct independent research, you will be relying on matters not presented in court. The parties have a right to have this case decided on the evidence they know about and that has been introduced here in court. If you do some research or investigation or experiment that we do not know about, then your verdict may be influenced by inaccurate, incomplete or misleading information that has not been tested by the trial process, including the oath to tell the truth and by cross-examination. All of the parties are entitled to a fair trial, rendered by an impartial jury, and you must conduct yourself so as to maintain the integrity of the trial process. If you decide a case based on information not presented in court, you will have denied the parties a fair trial in accordance with the rules of this state and you will have done an injustice. It is very important that you abide by these rules.

It is important that we have your full and undivided attention during this trial.

INSTRUCTION NO. 25

Upon retiring you shall select a foreperson. It will be his or her duty to see discussion is carried on in an orderly fashion, the issues are fully and freely discussed, and each juror is given an opportunity to express his or her views.

Your attitude at the beginning of your deliberations is important. It is not a good idea for you to take a position before thoroughly discussing the case with the other jurors. If you do this, individual pride may become involved and you may later hesitate to change an announced position even if shown it may be incorrect. Remember you are not partisans or advocates, but judges – judges of the facts. Your sole interest is to find the truth and do justice.

INSTRUCTION NO. 26

I am giving you one verdict form and questions. During the first six hours of deliberations, excluding meals and recesses outside your jury room, your decision must be unanimous. If you all agree, the verdict and questions must be signed by your foreperson.

After deliberating for six hours from 12:50 o'clock 7 .m., excluding meals or recesses outside your jury room, then it is necessary that only seven of you agree upon the answers to the questions. In that case, the verdict and questions must be signed by all seven jurors who agree.

When you have agreed upon the verdict and interrogatories and appropriately signed it, tell the court attendant.

Dated this 7th day of November 2025.

A handwritten signature in blue ink, appearing to read 'Michael Jacobsen', is written over a horizontal line.

**Michael Jacobsen – District Court Judge
Fifth Judicial District of Iowa**