

IN THE IOWA DISTRICT COURT FOR WOODBURY COUNTY

SIOUX CITY TRUCK & TRAILER, INC.,

FILED
25 MAY 23 P2:32

Plaintiff,

vs.

CLERK OF DISTRICT COURT

BY _____ DEPUTY

SIOUX CONTRACTORS, INC.,

Defendant.

LACV188684

**FINAL JURY INSTRUCTIONS
AND VERDICT FORM**

SIGNED THIS 23rd day of May 2025.

BY THE COURT:



**PATRICK H. TOTT
DISTRICT COURT JUDGE**

INSTRUCTION NO. 1

Members of the Jury:

This case involves the construction of a truck dealership by Sioux Contractors, Inc. for Sioux City Truck & Trailer, Inc. During construction and upon completion of the construction of the dealership a dispute arose between Sioux City Truck & Trailer, Inc. and Sioux Contractors, Inc. regarding alleged deficiencies in the construction of said building and the exterior concrete around the building. Sioux City Truck & Trailer, Inc. is seeking damages for the alleged deficiencies. Sioux Contractors, Inc. denies the claims of Sioux City Truck & Trailer, Inc. and disputes the amounts of damages it seeks in this case.

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. 2

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.

Do not be influenced by any personal likes or dislikes, sympathy, bias, prejudices or emotions. Because you are making very important decisions in this case, you are to evaluate the evidence carefully and avoid decisions based on generalizations, gut feelings, prejudices, sympathies, stereotypes, or 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. 3

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. 4

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. Stipulations which are agreements between the attorneys.
4. Any other matter admitted (e.g. answers to interrogatories, matters which judicial notice was taken, and etc.).

Evidence may be direct or circumstantial. The weight to be given 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. 5

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. 6

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. 7

The fact that the plaintiff and defendant are corporations 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. 8

You have heard evidence claiming that 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. 9

You have heard evidence claiming that 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. 10

Claims for breach of contract and breach of implied warranty for workmanlike construction, may only be brought against the general contractor for the project. The general contractor is responsible for any defective work performed by their subcontractors. Sioux Contractors Inc. was the general contractor for the construction of the dealership for Sioux City Truck & Trailer, Inc.

INSTRUCTION NO. 11

In order for the Plaintiff to recover for its breach of contract claim against the Defendant, the Plaintiff must prove all of the following propositions:

1. The parties were capable of contracting.
2. The existence of a contract.
3. The consideration for the contract.
4. The terms of the contract.
5. The Plaintiff did what the contract required them to do.
6. The Defendant breached the contract.
7. The amount of any damage caused by the Defendant's breach of contract.

If the Plaintiff has failed to prove any of these propositions, the Plaintiff is not entitled to damages. If the Plaintiff has proved all of these propositions, the Plaintiff is entitled to damages in some amount.

INSTRUCTION NO. 12

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

INSTRUCTION NO. 13

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. 14

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

INSTRUCTION NO. 15

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. 16

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

INSTRUCTION NO. 17

The measure of damages for breach of contract is an amount that would place Sioux City Truck & Trailer, Inc. in as good a position as it would have enjoyed if the contract had been performed.

No measure of damages, under any theory of recovery, is designed to permit an injured party to receive more than they have lost. Sioux City Truck & Trailer, Inc. must be able to prove that any damages they seek would not result in a betterment or enhanced value over and above what they would have received if there had not been a breach by Sioux Contractors, Inc.

The damages 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 cost of the repair or replacement of the item.

INSTRUCTION NO. 18

If you find that the cost of repair or replacement is grossly disproportionate to the result or benefit obtained, or would involve unreasonable destruction of the contractor's work, damages may be calculated based on diminution of value.

Diminution of value is the difference between the value of the property in the condition promised in the contract and the value of the property in its current state.

INSTRUCTION NO. 19

In order for the Plaintiff to recover for its breach of implied warranty claim against the Defendant, the Plaintiff must prove all of the following propositions:

1. That the Sioux City Truck & Trailer Inc facility was constructed to be occupied and used as at truck dealership.

2. That Sioux Contractors Inc. built or constructed the truck dealership for Sioux City Truck & Trailer, Inc.

3. That when Sioux Contractors Inc. turned the dealership over to Sioux City Truck & Trailer, Inc., the dealership had not been constructed in a good and workmanlike manner.

and

4. That by reason of the defective condition(s), Sioux City Truck & Trailer, Inc. suffered damages.

If the Plaintiff has failed to prove any of these propositions, the Plaintiff is not entitled to damages. If the Plaintiff has proved all of these propositions, the Plaintiff is entitled to damages in some amount.

INSTRUCTION NO. 20

An implied warranty is one that arises out of operation of law from the acts of the parties or circumstances of the transaction. It requires no intent or particular language or action by the contractor to create it.

INSTRUCTION NO. 21

The amount you assess for any item of damage must not exceed the amount caused by the defendant as proved by the evidence. A party cannot recover duplicate damages. Do not allow amounts awarded under one item of damage to be included in any amount awarded under another item of damage.

INSTRUCTION NO. 22

In arriving at an item of damage you cannot arrive at a figure by taking down the estimate of each juror as to an item of damage, and agreeing in advance that the average of those estimates shall be your item of damage.

INSTRUCTION NO. 23

Upon retiring you shall select a foreman or forewoman. 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 are judges - judges of the facts. Your sole interest is to find the truth and do justice.

INSTRUCTION NO. 24

During the trial, you have been allowed to take notes. You may take these with you to the jury room to use in your deliberations. Remember, these are notes and not evidence. Generally, they reflect the recollection or impressions of the evidence as viewed by the person taking them, and may be inaccurate or incomplete.

Upon reaching a verdict, leave the notes in the jury room and they will be destroyed.

INSTRUCTION NO. 25

Occasionally, after a jury retires to the jury room, the members have questions. I have prepared the instructions after carefully considering this case with the parties and lawyers. I have tried to use language which is generally understandable. Usually, questions about instructions can be answered by carefully re-reading them.

If it is necessary to ask a question, you must do so in writing and deliver the question to the court attendant. I cannot communicate with you without first discussing your question and potential answer with the parties and lawyers. This process naturally takes time and deliberation before I can reply. The foreperson shall read my response to the jury. Keep the written question and response and return it to the Court with the verdict.

The court attendant who has been working with me on this case is in the same position as I am. She has taken an oath not to communicate with you except to ask if you have agreed upon a verdict. Please do not put her on the spot by asking her any questions. You should direct your questions to the Court and not to the court attendant.

INSTRUCTION NO. 26

I am giving you one verdict form. 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 answers to questions must be signed by your foreman or forewoman.

After deliberating for six hours from 10:41 o'clock A.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 must be signed by all seven jurors who agree.

When you have agreed upon the verdict and appropriately signed it, tell the Court Attendant.