

IN THE IOWA DISTRICT COURT FOR WOODBURY COUNTY

FILED

DOUGLAS M. WIGGS and
BARBARA D. WIGGS, husband and
wife,

Plaintiffs,

vs.

STATE FARM FIRE AND CASUALTY
COMPANY, a/k/a STATE FARM,

Defendant.

CASE NO. LACV178245

21 MAY 21 P1:43

CLERK OF DISTRICT COURT

BY

DEPUTY

JURY INSTRUCTIONS AND
VERDICT FORM

JURY INSTRUCTION NO. 1

Members of the Jury: In this case Plaintiffs Douglas Wiggs and Barbara Wiggs claim Defendant State Farm Fire and Casualty Company breached an insurance contract after a fire on November 24, 2013, damaged property located at 2529 Port Neal Road, Sergeant Bluff, Iowa. Plaintiffs claim State Farm's breach of contract is a cause of damages.

State Farm denies it breached the contract. State Farm denies it caused Plaintiffs' damages. State Farm claims Plaintiffs breached the contract, and State Farm claims the contract is void.

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.

JURY 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.

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.

JURY INSTRUCTION NO. 3

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.

JURY INSTRUCTION NO. 4

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.

JURY INSTRUCTION NO. 5

The fact that a plaintiff or defendant is a corporation should not affect your decision. All parties 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.

JURY INSTRUCTION NO. 6

A deposition is testimony taken under oath before the trial and preserved in writing.

Consider that testimony as if it had been given in court.

JURY INSTRUCTION NO. 7

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.

JURY INSTRUCTION NO. 8

You have heard evidence claiming Douglas Wiggs made statements before this trial while under oath.

If you find such a statement was made, you may regard the statement as evidence in this case the same as if Douglas Wiggs had made it under oath during the trial.

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

JURY INSTRUCTION NO. 9

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.

JURY INSTRUCTION NO. 10

Plaintiffs claim State Farm breached an insurance contract. Plaintiffs must prove all of the following propositions:

1. The plaintiffs were insured for loss due to fire by State Farm on the date of loss **(the parties agree that this element has been proven by the plaintiffs and is not in dispute).**
2. The plaintiffs had a loss by fire which was covered by the insurance policy with the defendant **(the parties agree that this element has been proven by the plaintiffs and is not in dispute).**
3. The plaintiffs complied with all the terms of the insurance policy with regard to the loss.
4. The defendant did not pay the plaintiff's claim.
5. The nature and extent of damage.

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.

JURY INSTRUCTION NO. 11

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

JURY INSTRUCTION NO. 12

The measure of damages for breach of a 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.

If you find Plaintiffs are entitled to recover damages, you shall consider the following items:

The actual cash value of property owned by Plaintiffs that was damaged in the fire of November 24, 2013.

JURY INSTRUCTION NO. 13

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

JURY INSTRUCTION NO. 14

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.

JURY INSTRUCTION NO. 15

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, however, any of you feel it 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. They will take an oath not to communicate with you except to ask if you have agreed upon a verdict. Please do not put them on the spot by asking any questions. You should direct your questions to the Court and not to the court attendant.

JURY INSTRUCTION NO. 16

You may not communicate about this case before reaching your verdict. This includes cell phones, and electronic media such as text messages, Facebook, Instagram, Snapchat, Tiktok, 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.

JURY INSTRUCTION NO. 17

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.

JURY INSTRUCTION NO. 18

I am giving you one (1) 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 must be signed by your foreman or forewoman.

After deliberating for six hours from 10:21 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.


JEFFREY A. NEARY
District Court Judge