

ORIGINAL

IN THE IOWA DISTRICT COURT FOR HARRISON COUNTY

JEFF A. SKARIN AND KRISTY R.
SKARIN,

Plaintiffs,

vs.

STATE FARM FIRE & CASUALTY
COMPANY,

Defendant.

CASE NO. LACV031058

INSTRUCTIONS TO THE JURY

Instruction No. 1

Plaintiffs Jeff Skarin and Kristy Skarin claim Defendant State Farm Fire and Casualty Company breached an insurance contract by failing to pay them for their loss after a fire occurred on November 23, 2021, at their residence located at 1106 Eaton Street, Dunlap, Iowa.

Defendant State Farm Fire and Casualty Company denies that it breached the insurance contract and claims that Jeff Skarin and Kristy Skarin breached the contract because the fire loss was not an accidental direct physical loss, because Plaintiff Jeff Skarin intentionally set fire to the structure, and because both Plaintiffs misrepresented material facts to State Farm.

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

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 by the Court.

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

The following are not evidence:

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

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.

Instruction No. 5

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. 6

Certain testimony has been read into evidence from an examination under oath. An examination under oath is sworn testimony taken before the trial and preserved in writing. Consider that testimony as if it had been given in court.

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 for the opinion, and all the other evidence in the case.

Instruction No. 8

You have heard evidence claiming Jeff Skarin and/or Kristy Skarin 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 if they were made at this trial. Decide whether to consider the earlier statements for any purpose and what weight to give them.

Instruction No. 9

The fact that State Farm 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. 10

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. 11

Jeff and Kristy Skarin must prove all the following propositions by a preponderance of the evidence:

1. The Skarins' dwelling and personal property were insured under a contract of insurance with State Farm on November 23, 2021.
2. The Skarins had paid the premiums which were due.
3. The Skarins' dwelling and personal property sustained a loss due to fire which was covered by the insurance policy with State Farm.
4. The Skarins complied with the conditions of the policy.
5. The Skarins gave State Farm timely proof of loss.
6. State Farm did not pay the Skarins' claim.

State Farm agrees that the Skarins have proved Elements 1, 2, 4, 5, and 6. State Farm disagrees that the Skarins have proven Element 3.

If the Skarins have failed to prove any of these propositions, the Skarins are not entitled to a verdict in their favor. If the Skarins have proved all of the propositions, then you will consider the defenses of 1) Intentional loss and 2) Concealment or fraud as explained in Instruction Nos. 12 and 13.

Instruction No. 12

State Farm claims the Skarins intentionally caused the loss to the property covered under the policy. State Farm has the burden of proving by the preponderance of evidence that the Skarins intentionally set the fire causing the loss.

The “intentional acts” condition of the policy provides as follows:

Intentional losses. *If any insured intentionally causes or procures a loss to property covered under this policy, we will not pay any insured for this loss*

This does not apply to an insured who did not participate in, cooperate in, or contribute to causing or procuring the loss.

If you find this condition applies to this claim, then your verdict must be for the defendant State Farm.

Instruction No. 13

State Farm also claims the Skarins intentionally concealed or misrepresented material facts relating to the fire or loss. State Farm has the burden of proving by a preponderance of the evidence that the Skarins either intentionally concealed or misrepresented material facts concerning the fire or loss.

The Concealment or Fraud condition of the policy provides as follows:

2. Concealment, fraud. *This policy is void as to you and any other insured, if you or any other insured under this policy has intentionally concealed or misrepresented any material fact or circumstance relating to this insurance, whether before or after a loss.*

If you find this condition applies to this claim, then your verdict must be for the defendant State Farm.

Instruction No. 14

In determining whether the Skarins' concealment or misrepresentation involves a material fact or circumstance, you will evaluate whether the concealment or misrepresentation pertains to facts that are relevant to State Farm's rights to enable the company to decide upon its obligations and to protect itself against false claims.

Instruction No. 15

Upon retiring you shall select a foreperson. It will be their 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 their 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. 16

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

Instruction No. 17

I am giving you one verdict form with three 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 answers to questions must be signed by your foreperson.

After deliberating for six hours from ____ o'clock ____ .m. excluding meals or recesses outside your jury room, then only seven of you must 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 answers to questions and appropriately signed it, please tell the court attendant.

April 10, 2024.



KATHLEEN A. KILNOSKI, DISTRICT JUDGE

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VERDICT FORM

We find the following verdict on the questions submitted to us:

Question No. 1: Did the Skarins prove that they sustained a loss due to fire that was covered under the policy with State Farm?

Answer "yes" or "no."

ANSWER: No

[If your answer to Question No. 1 is "no," do not answer any further questions.]

Question No. 2: Did State Farm prove that Jeff Skarin or Kristy Skarin intentionally caused or procured a loss to property covered under the Policy?

Answer "yes" or "no."

ANSWER: _____

[If your answer to Question No. 2 is "yes," do not answer any further questions.]

Question No. 3: Did State Farm prove that Jeff Skarin or Kristy Skarin willfully concealed or misrepresented a material fact during State Farm's investigation of the fire loss?

Answer "yes" or "no."

ANSWER: _____


Head Juror*

4-10-24
Date

*To be signed only if verdict is unanimous.

Juror**

Juror**

Juror**

Juror**

Juror**

Juror**

Juror**

**To be signed by the jurors agreeing thereto after 6 hours or more of deliberating.