

IN THE IOWA DISTRICT COURT FOR POTTAWATTAMIE COUNTY

JOSEPH MICHAEL ANCONA

Plaintiff

04781 EQCV120708

VS

ORDER

CRESCO CAPITAL, INC

Defendant

This matter came before the Court for ICN teleconference on Defendant's Motion for New Trial or Remittitur. Plaintiff appears by attorney Mark Rater. Defendant appears by attorney John Whitworth. The Court hears from counsel and reviews the file in light of the pending Motion. Being advised the Court enters the following Order.

Defendant asks for a new trial or remittitur on three basic arguments. Defendant's first two arguments are that the verdict of \$250,000.00 cannot be supported either because there is insufficient evidence or the jury rendered its verdict based on passion or prejudice. There is no question this verdict is sizeable. While the size of the verdict may have come as a shock to Defendant, it is supported by sufficient evidence. There is nothing to support the proposition that the jury was improperly swayed by undue passion or unfair prejudice. The jury may well have felt sorry for Plaintiff, but that does not change the fact that there was sufficient evidence to support their verdict.

It is interesting to note that both parties submitted identical requests for their form of verdict. Neither of them asked to have damages separated out by line item. Both of them submitted a proposed form of verdict that only asked the jury for a total amount without itemization. Both sides felt this was the appropriate way to submit the case and that is what the Court did.

The third argument of Defendant is that submitting this to a jury was somehow improper and therefore constitutes an irregularity in the proceedings. This Court must confess that this argument is a bit frustrating to the Court. At the pretrial conference this Court specifically asked the parties if this was to be jury trial. **Both parties** responded to that direct question in the affirmative. Defendant cannot now be heard to claim that its agreement to submit this to a jury somehow creates an irregularity. In addition the Court finds that Plaintiff did, in fact, timely demand a trial by jury.

Defendant's Motion for New Trial or Remittitur is denied.

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State of Iowa Courts

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OTHER ORDER

So Ordered

Greg W. Steensland, District Court Judge,
Fourth Judicial District of Iowa

Electronically signed on 2021-10-11 14:58:41