

**FILED**

SEP 13 2023

IN THE IOWA DISTRICT COURT FOR WEBSTER COUNTY

GOOD SUMMER, LLC,

Plaintiff,

v.

PAUL M. BRANDOW and MATTHEW  
HALLIGAN,

Defendants.

Case No. LACV321909

CLERK OF DISTRICT COURT  
WEBSTER COUNTY, IOWA

**JURY INSTRUCTIONS**

**STATEMENT OF THE CASE**

Members of the Jury: In this case, Plaintiff Good Summer, LLC, claims it had a contract with Defendant Paul Brandow to purchase certain real estate in Webster County, Iowa, and that Paul Brandow breached that contract. In addition, Plaintiff claims that Defendant Matthew Halligan intentionally and improperly interfered with that contract, causing Paul Brandow not to complete the contract. Good Summer, LLC, claims it has been damaged by these actions by the Defendants.

Paul Brandow denies that there was an enforceable contract and denies he breached the contract. Matthew Halligan denies there was an enforceable contract and denies he improperly or intentionally interfered with the contract.

Do not consider this summary as proof of any claim. Decide the facts from the evidence and apply the law which I 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. 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. 2**

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. 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.

#### **INSTRUCTION NO. 4**

During this trial, you have heard the word ‘interrogatory’. An interrogatory is a written question asked by one party of another, who must answer it under oath in writing. Consider interrogatories and the answers to them as if the questions had been asked and answered here in court.

### **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 evidence claiming that Paul Brandow, and Matthew Halligan made statements before this trial while not under oath. If you find any such statements were made, you may regard any such statements as evidence in this case the same as if Dan Summers, Paul Brandow, or Matthew Halligan had made them under oath during the trial.

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

### **INSTRUCTION NO. 7**

You have heard evidence claiming that Dan Summers made statements before this trial while under oath. If you find such statements were made, you may regard the statements as evidence in this case the same as if Dan Summers had made them under oath during the trial.

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



### **INSTRUCTION NO. 8**

The fact that a plaintiff or 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. 9**

The Plaintiff must prove all of the following propositions:

1. The existence of a contract.
2. The terms of the contract.
3. The plaintiff has done what the contract requires or has been excused from doing what the contract requires as explained in Instruction(s) No. 16.
4. The defendant has breached the contract.
5. The amount of any damage defendant has caused.

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. 10**

A contract is an agreement between two or more persons to do or not to do something.

### **INSTRUCTION NO. 11**

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. 12**

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. 13**

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

#### **INSTRUCTION NO. 14**

When a person agrees to do something for a specified consideration to be received after full performance, they are not entitled to any part of the consideration until they have performed as agreed unless full performance has been excused, waived, prevented or delayed by the act of the other party.

However, a plaintiff who has not fully performed under the terms of the contract may still recover some amount if the failure to render performance due at an earlier time was not material. In determining whether a failure to render or to offer performance is material, the following circumstances are significant:

1. The extent to which defendant will be deprived of the benefit which defendant reasonably expected.
2. The extent to which defendant can be adequately compensated for the part of that benefit of which defendant will be deprived.
3. The extent to which plaintiff will suffer forfeiture.
4. The likelihood that plaintiff will cure the failure, taking account of all the circumstances including any reasonable assurances.
5. The extent to which the behavior of the plaintiff is in line with standards of good faith and fair dealing which implies that neither party will do anything which will have the effect of destroying or injuring the right of the other party to receive the fruits of the contract.

### **INSTRUCTION NO. 15**

When the parties make time of the essence in setting a deadline for performance, strict compliance with such deadline is required, unless a waiver of performance has been proven as provided in Instruction No. 16.



### **INSTRUCTION NO. 16**

The right to insist on performance can be given up. This is known as a “waiver”. A waiver may be shown by actions, or you may conclude from Paul Brandow’s conduct and the surrounding circumstances that a waiver was intended. The essential elements of a waiver are the existence of a right, knowledge of that right, and an intention to give it up.

### **INSTRUCTION NO. 17**

The Plaintiff must prove all of the following propositions:

1. The plaintiff had a contract with Paul Brandow.
2. Matthew Halligan knew of the contract.
3. Matthew Halligan intentionally and improperly interfered with the contract by inducing Paul Brandow to breach the contract by offering him substantially more money.
4. The interference caused Paul Brandow not to perform the contract.
5. The nature and amount of damage.

If the plaintiff has failed to prove any one or more 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. 18**

Defendant Matthew Halligan “knew” of the contract if he either had actual knowledge of the contract or else had knowledge of facts which, if followed by reasonable inquiry, would have led to disclosure of the contract between Paul Brandow and Good Summer, LLC.

### **INSTRUCTION NO. 19**

In determining whether a defendant's conduct in intentionally interfering with a contract is improper you should determine whether the conduct was fair and reasonable under the circumstances. In determining whether the conduct was improper you may consider:

1. The nature of the conduct.
2. The defendant's motive.
3. The interests of the party with which the conduct interferes.
4. The interest sought to be advanced by the defendant.
5. The social interests in protecting the freedom of action of the defendant and the contractual interests of the other party.
6. The nearness or remoteness of the defendant's conduct to the interference.
7. The relations between the parties.

### **INSTRUCTION NO. 20**

A defendant's interference with a contract is intentional if the defendant either interferes with the contract on purpose or knows the conduct is substantially certain to interfere with the contract.

### **INSTRUCTION NO. 21**

The conduct of a party is a cause of damage when the damage would not have happened except for the conduct. There can be more than one cause of an injury or damage.

## **INSTRUCTION NO. 22**

The measure of damages for intentional and improper interference with contract is an amount that would place the party in as good a position as they would have enjoyed if the contract had been performed.

The damages you award for intentional and improper interference with contract must be foreseeable or have been reasonably foreseen at the time the intentional and improper interference occurred.

In your consideration of the damages, you may consider the following: Damages claimed by Good Summer LLC as a result of intentional and improper interference with contract.

### **INSTRUCTION NO. 23**

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. 24**

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. 25**

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. 26**

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

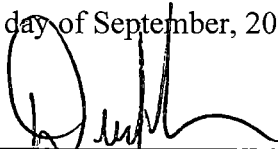
### INSTRUCTION NO. 27

I am giving you 2 verdict forms with 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 foreman or forewoman.

After deliberating for six hours from 1:00 o'clock 1 .m. excluding meals or recesses outside your jury room, then it is necessary that only six of you agree upon the answers to the questions. In that case, the verdict [and questions] must be signed by all six jurors who agree.

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

Signed at 1:00 o'clock 1 .m. this 13<sup>th</sup> day of September, 2023.

  
DEREK JOHNSON, Judge  
Second Judicial District  
STATE OF IOWA

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GOOD SUMMER, LLC,

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Case No. LACV321909

**VERDICT FORM 1**

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

**Question No. 1:** Did Plaintiff prove that Paul Brandow breached its contract with Good Summer, LLC.?

Answer: Yes X No                     

(If your answer is "Yes" proceed to answer Question 2. If your answer is "No" do not answer any further questions.

**Question No. 2:** Did Plaintiff prove that it suffered damages as a result of Paul Brandow's breach of his contract with Good Summer, LLC?

Answer: Yes X No                     

(If your answer is "Yes" proceed to answer Question 3. If your answer is "No" do not answer any further questions.

**Question No. 3:** State the amount of damages sustained by Good Summer, LLC as a result of Paul Brandow's breach of the contract. If the plaintiff has failed to prove any item of damage or has failed to prove that any item of damage was caused by defendant's fault, enter 0 for that item.

Damages \$ 62,500

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CLERK OF DISTRICT COURT  
WEBSTER COUNTY, IOWA

IN THE IOWA DISTRICT COURT IN AND FOR WEBSTER COUNTY

GOOD SUMMER, LLC,

Case No. LACV321909

Plaintiff,

vs.

PAUL M. BRANDOW and MATTHEW  
HALLIGAN,**VERDICT FORM 2**

Defendants.

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

**Question No. 1:** Did Plaintiff prove that Matthew Halligan improperly interfered with Good Summer, LLC's contract with Paul Brandow?

Answer: Yes \_\_\_\_\_

No X

(If your answer is "Yes" proceed to answer Question 2. If your answer is "No" do not answer any further questions.

**Question No. 2:** Did Plaintiff prove that it suffered damages as a result of Matthew Halligan's improper interference with its contract with Paul Brandow?

Answer: Yes \_\_\_\_\_

No \_\_\_\_\_

(If your answer is "Yes" proceed to answer Question 3. If your answer is "No" do not answer any further questions.

**Question No. 3:** State the amount of damages sustained by Good Summer, LLC as a result of Matthew Halligan's improper interference with its contract. If the plaintiff has failed to prove any item of damage or has failed to prove that any item of damage was caused by defendant's fault, enter 0 for that item.

Damages \$ \_\_\_\_\_

Jessica Kenyon  
FOREMAN OR FOREWOMAN\*  
Jessica Kenyon

\*To be signed only if verdict is unanimous.

\_\_\_\_\_  
Juror\*\*                      Juror\*\*                      \_\_\_\_\_

\_\_\_\_\_  
Juror\*\*                      Juror\*\*                      \_\_\_\_\_

\_\_\_\_\_  
Juror\*\*                      Juror\*\*                      \_\_\_\_\_

\_\_\_\_\_  
Juror\*\*

\*\*To be signed by the jurors agreeing thereto after six hours or more of deliberation.