

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

REMBRANDT ENTERPRISES, INC.,

Plaintiff,

vs.

TECNO POULTRY EQUIPMENT,
SpA,

Defendant.

No. 21-CV-4007-CJW-MAR

JURY INSTRUCTIONS

Members of the jury:

In the next few minutes, I am going to give you instructions about this case and about your duties as jurors. These instructions are to help you better understand the trial and your role in it. I may give you additional instructions during trial, and I will give you additional instructions at the end of the trial. Consider these instructions, together with any instructions I give you during the trial, and at the end of the trial, and apply them as a whole to the facts of this case. You must follow all instructions I give you. You must not single out some instructions and ignore others. The written instructions I give you now and at the end of the trial will be available to you in the jury room. I emphasize, however, that written instructions are not more important than oral ones. *All* instructions, whenever given and whether in writing or not, must be followed.

In considering these instructions, the order in which they are given is not important.

INSTRUCTION NO. 1

As I explained during jury selection, this is a civil lawsuit over a dispute between Rembrandt Enterprises, Inc., the plaintiff, and Tecno Poultry Equipment S.P.A., the defendant, regarding the collapse of a chicken caging system. For ease of reference, I will refer to them as Rembrandt and Tecno.

Tecno manufactured the system, and Rembrandt purchased the system from Tecno. The cage system was assembled and installed in one of Rembrandt's barns by a company called Stanley & Sons, a company that is not a party to this case. The cage system later collapsed in one of Rembrandt's barns.

Rembrandt claims Tecno was negligent in Tecno's supervision of Stanley & Sons' assembly and installation of the cage system, causing the collapse. Tecno denies that it was negligent or that its conduct caused the collapse.

Tecno claims that Rembrandt was negligent in its maintenance and repair of the cage system, causing the collapse. Rembrandt denies that it was negligent or that its conduct caused the collapse.

Do not consider this summary as proof of any claim. You must decide the facts from the evidence and apply the law which I will now give you.

INSTRUCTION NO. 2

By contract between the parties, Tecno assumed a duty to supervise the installation of the cage system. Rembrandt claims Tecno negligently carried out that duty.

“Negligence” means failure to use ordinary care. Ordinary care is the care which a reasonably careful person would use under similar circumstances. “Negligence” is doing something a reasonably careful person would not do under similar circumstances, or failing to do something a reasonably careful person would do under similar circumstances.

You must give “supervision” its ordinary meaning. Ordinary meaning is how a reasonable person would understand the word. In determining the meaning of the word “supervision,” you may consider evidence of its meaning, such as dictionary definitions, industry standards and practice, and communications between Rembrandt and Tecno about its meaning.

In order to prove its claim, Rembrandt must prove the following elements by a preponderance of the evidence:

1. Tecno was negligent in supervising the installation of the cage system;
2. Tecno’s negligence was a cause of damage to Rembrandt, and;
3. The amount of damage.

If Rembrandt has failed to prove these elements by a preponderance of the evidence, you must find for Tecno.

INSTRUCTION NO. 3

You must decide whether the claimed harm to Rembrandt is within the scope of Tecno's liability. Rembrandt's claimed harm is within the scope of Tecno's liability if that harm arises from the same general types of danger that Tecno should have taken reasonable steps to avoid.

Consider whether repetition of Tecno's conduct makes it more likely harm of the type Rembrandt claims to have suffered would happen to another. If not, the harm is not within the scope of liability.

INSTRUCTION NO. 4

Tecno claims Rembrandt was at fault. To prevail on this defense, Tecno must prove both of the following elements:

1. Rembrandt was at fault. In order to prove fault, Tecno must prove that Rembrandt was negligent in one or more of the following ways:

- a. Failing to use reasonable care to implement and follow a preventative maintenance program for the chicken caging system; and/or
- b. Failing to use reasonable care to properly operate all aspects of the chicken caging system, including the required timely operation of the manure removal conveyor belts; and/or
- c. Failing to use reasonable care to follow Tecno's manual and/or instructions concerning the operation of the manure removal conveyor belts; and/or
- d. Failing to use reasonable care to appropriately hire, train and retain competent and qualified staff to maintain the chicken caging system; and/or
- e. Failing to use reasonable care to appropriately hire, train and retain competent and qualified staff to operate the manure removal conveyor belts; and/or
- f. Failing to use reasonable care to clean or maintain the manure removal conveyor belts; and/or
- g. Failing to use reasonable care by allowing excess manure to accumulate in the chicken caging system.

2. Rembrandt's fault was a cause of Rembrandt's damage.

(Continued)

INSTRUCTION NO. 4 (Cont'd)

If Tecno has failed to prove that Rembrandt was negligent in one or more ways as set out above, or if Tecno has failed to prove that Rembrandt's fault was a cause of Rembrandt's damage, then Tecno has not proved its defense. If Tecno has proved both elements, then you will assign a percentage of fault against Rembrandt and include Rembrandt's fault in the total percentage of fault found by you answering the special verdicts.

INSTRUCTION NO. 5

Each party claims the negligence of the other is what caused the cage system to collapse, resulting in damages to Rembrandt. 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 damage.

Damages may be the fault of more than one party. Fault means one or more acts or omissions which constitutes “negligence.” In comparing fault, you should consider all of the surrounding circumstances as shown by the evidence, together with the conduct of Rembrandt and Tecno and the extent of the causal relation between their conduct and the damages claimed. You should then determine what percentage, if any, each party’s fault contributed to the damages.

In arriving at any percentage of fault, you cannot arrive at a figure by taking down the estimate of each juror as to a percentage of fault and agreeing in advance that the average of those estimates will be your percentage of fault.

After you have compared the conduct of both parties, if you find Rembrandt was at fault and that Rembrandt’s fault was more than 50% of the total fault, Rembrandt cannot recover damages.

However, if you find Rembrandt’s fault was 50% or less of the total fault, then I will reduce the total damages by the percentage of Rembrandt’s fault that you find.

INSTRUCTION NO. 6

Your duty is to decide what the facts are from the evidence. You are allowed to consider the evidence in the light of your own observations and experiences. After you have decided what the facts are, you will have to apply those facts to the law that I give you in these and in my other instructions. That is how you will reach your verdict. Only you will decide what the facts are. However, you must follow my instructions, whether you agree with them or not. You have taken an oath to follow the law that I give you in my instructions.

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness says, or only part of it, or none of it.

In deciding what testimony to believe, consider the witnesses' intelligence, their opportunity to have seen or heard the things they testify about, their memories, any reasons they might have to testify a certain way, how they act while testifying, whether they said something different at another time, whether their testimony is generally reasonable, and how consistent their testimony is with other evidence that you believe.

Do not let sympathy, or your own likes or dislikes, influence you. The law requires you to come to a just verdict based only on the evidence, your common sense, and the law that I give you in my instructions, and nothing else.

Nothing I say or do during this trial is meant to suggest what I think of the evidence or what I think your verdict should be.

INSTRUCTION NO. 7

Your verdict will depend upon whether or not you find certain facts have been proved by the greater weight of the evidence, also known as a preponderance of the evidence. The obligation to prove a fact, or “the burden of proof,” is upon the party whose claim depends upon that fact.

To determine whether a fact has been proved by the greater weight of the evidence, you must consider the evidence in the case, decide which evidence is more believable, and then determine whether the fact is more likely true than not true. If you find a fact is more likely true than not true, then the fact has been proved by the greater weight of the evidence. If you find a fact is more likely not true than true, or you find the evidence on the fact is equally balanced, then the fact has not been proved by the greater weight of the evidence. The greater weight of the evidence is not determined by the number of witnesses or exhibits a party presents, but by your judgment as to the weight of all of the evidence.

You may have heard of the term “proof beyond a reasonable doubt.” That is a stricter standard which applies in criminal cases. It does not apply in civil cases such as this one.

INSTRUCTION NO. 8

You must base your verdict only upon the evidence, these instructions, and other instructions that I may give you during trial. The “evidence” in this case consists of the following: the testimony of the witnesses (whether in person or through deposition), the documents and other things received as exhibits, and the facts that have been stipulated to—that is, facts the parties have formally agreed to.

There are two types of evidence from which you may properly find the truth as to the facts of this case: direct evidence and circumstantial evidence. Direct evidence is the evidence of the witnesses to a fact or facts of which they have knowledge by means of their senses. The other is circumstantial evidence—the proof of a chain of circumstances pointing to the existence or nonexistence of certain facts. The law makes no distinction between direct and circumstantial evidence. You should give all evidence the weight and value you believe it is entitled to receive.

Certain things are not evidence. I will list those things for you now:

1. Statements, arguments, questions, and comments by the lawyers are not evidence.
2. Anything that jurors, the attorneys, or the judge might have said during the jury selection process is not evidence.
3. Objections are not evidence. The parties have a right to object when they believe something is improper. You should not be influenced by objections. If I sustained an objection to a question, you must ignore the question and must not try to guess what the answer might have been.
4. Testimony that I strike from the record, or tell you to disregard, is not evidence and must not be considered.
5. Anything you see or hear about this case outside the courtroom is not evidence.

(Continued)

INSTRUCTION NO. 8 (Cont'd)

6. Demonstrative summaries not received as evidence. Certain charts, summaries or other items may be shown to you in order to help explain the facts or other underlying evidence in the case. These are used for convenience. They are not themselves evidence or proof of any facts.

Sometimes during a trial, references are made to pre-trial statements and reports, interrogatories, 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.

INSTRUCTION NO. 9

You will hear evidence relating to Stanley & Sons during the course of the trial. Stanley & Sons is not a party to this case, and you will not make a finding as to whether Stanley & Sons was at fault. Your sole obligation is to decide the case between Rembrandt and Tecno as set forth in my other instructions.

INSTRUCTION NO. 10

You may hear reference to insurance during the course of the trial. Evidence that a party was or was not insured may not be considered in your determination of whether a party was at fault, in your comparison of the conduct of the parties, or in your determination of any damages as set forth in my other instructions.

INSTRUCTION NO. 11

The jurors are the sole judges of the weight and credibility of the testimony, and the value to be given to the testimony, of each witness who testifies in this case. In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness says, or only part of it, or none of it.

In deciding what testimony of any witness to believe, consider the witness' intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness' memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with other evidence that you believe.

In deciding whether to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider, therefore, whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

INSTRUCTION NO. 12

You may hear testimony from witnesses who may be knowledgeable in a field because of their education, experience, or both. They are permitted to give their opinions on matters in that field and the reasons for their opinions.

You may accept or reject this type of testimony just like any other testimony. After considering such witness' education and experience, the reasons given for the opinion, and all the other evidence in the case, you may give such a witness' testimony whatever weight, if any, you think it deserves.

These type of witnesses may be asked to assume certain facts are true, and to give an opinion based on that assumption. This is called a hypothetical question. When deciding the weight, if any, to give to the witness' testimony, if you conclude a fact assumed in a hypothetical question has not been proved by the evidence, you should consider the extent to which the falsely assumed fact affects the value of the opinion.

INSTRUCTION NO. 13

During the trial, it may be necessary for me to talk with the attorneys out of your hearing, either by having a bench conference here, while you are present in the courtroom, or by calling a recess. Please understand that while you are waiting, we are working. The purpose of these conferences is to decide how certain evidence is to be treated under the rules of evidence and to avoid wasting your time. We will do what we can to keep the number and length of these conferences to a minimum. While bench conferences are being conducted, you should feel free to stand and stretch and visit among yourselves about anything except the case.

INSTRUCTION NO. 14

At the end of the trial, you must make your decisions based on what you recall of the evidence. You will not have a written transcript to consult. Therefore, you must pay close attention to the testimony as it is given.

If you wish, you may take notes during the presentation of evidence to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. Do not let note-taking distract you so that you do not hear other answers by the witnesses.

During deliberations, in any conflict between your notes, a fellow juror's notes, and your memory, your memory must prevail. Remember that notes sometimes contain the mental impressions of the note taker and can be used only to help you recollect what the testimony was.

We have given each of you an envelope with a pad and pen in it. The envelopes are numbered according to your seat in the jury box. When you leave for breaks or at night, please put your pad and pen in the envelope and leave the envelope on your chair. Your notes will be secured, and they will not be read by anyone. At the end of trial and your deliberations, your notes should be left in the jury room for destruction.

INSTRUCTION NO. 15

You must decide this case solely on the evidence and your own observations, experiences, reason, common sense and the law in these instructions. You must also keep to yourself any information that you learn in court until it is time to discuss this case with your fellow jurors during deliberations.

To ensure fairness, you must obey the following rules:

- Do not talk among yourselves about this case, or about anyone involved with it, until you go to the jury room to decide on your verdict.
- Do not talk with anyone else about this case, or about anyone involved with it, until the trial is over.
- When you are outside the courtroom, do not let anyone ask you about or tell you anything about this case, anyone involved with it, any news story, rumor or gossip about it, until the trial is over. If someone should try to talk to you about this case during the trial, please report it to me.
- During the trial, you should not talk to any of the parties, lawyers, or witnesses, even to pass the time of day, so that there is no reason to be suspicious about your fairness. The lawyers, parties, and witnesses are not supposed to talk to you either.
- You may need to tell your family, friends, teachers, co-workers, or employer about your participation in this trial so that you can tell them when you must be in court and warn them not to ask you or talk to you about the case. However, do not provide any information to anyone by any means about this case until after I have accepted your verdict. That means do not talk face-to-face or use any electronic device or media, such as the telephone, a cell or smart phone, a PDA, a computer, the Internet, any

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INSTRUCTION NO. 15 (Cont'd)

Internet service, any text or instant messaging service, any Internet chat room, any blog or any website such as Facebook, YouTube, or Twitter, to communicate to anyone any information about this case until I accept your verdict.

- Do not do any research on the Internet, in libraries, in the newspapers, on social media, in dictionaries, or other reference books or in any other way or make any investigation about this case, the law, or the people involved 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.
- Do not read any news stories or articles, in print, on the Internet or on any blog, about this case or about anyone involved with it or listen to any radio or television reports about it or about anyone involved with it or let anyone tell you anything about any such news reports. I assure you that when you have heard all the evidence, you will know more about this case than anyone will learn through the news media, and it will be more accurate.
- Do not make up your mind during the trial about what the verdict should be. Keep an open mind until you have had a chance to discuss the evidence with other jurors during deliberations.
- Do not decide the case based on biases. Because you are making very important decisions in this case, I strongly encourage you to evaluate the evidence carefully and to resist jumping to conclusions based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies,

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INSTRUCTION NO. 15 (Cont'd)

stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your individual evaluation of that evidence, your reason and common sense, and these instructions. Our system of justice is counting on you to render a fair decision based on the evidence, not on biases.

- If, at any time during the trial, you have a problem that you would like to bring to my attention, or if you feel ill or need to go to the restroom, please send a note to the Court Security Officer, who will give it to me. I want you to be comfortable, so please do not hesitate to tell us about any problem.

INSTRUCTION NO. 16

The trial will proceed in the following manner:

First, the lawyers for Rembrandt may make an opening statement. Next, the lawyers for Tecno may make an opening statement. An opening statement is not evidence, but it is a summary of the evidence the lawyers expect you will see and hear during the trial.

After opening statements, Rembrandt will then present evidence in support of its contentions. Tecno will have a chance to cross-examine Rembrandt’s witnesses. After Rembrandt has finished presenting its case, Tecno may present evidence, and Rembrandt will have a chance to cross-examine Tecno’s witnesses.

After you have seen and heard all of the evidence from both sides, the parties will make closing arguments that summarize and interpret the evidence. Just as with opening statements, closing arguments are not evidence. After the closing arguments, I will instruct you further on the law. After the closing arguments and after the court’s instructions you will go to the jury room to deliberate and decide on your verdict.

Dated this _____ day of February, 2024.

C.J. WILLIAMS
United States District Judge
Northern District of Iowa

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

REMBRANDT ENTERPRISES, INC.,

Plaintiff,

vs.

TECNO POULTRY EQUIPMENT, SpA,

Defendant.

No. 21-CV-4007-CJW-MAR

FINAL JURY INSTRUCTIONS

Members of the jury:

The instructions I gave you at the beginning of the trial and during the trial remain in effect. I will now give you some additional instructions before you begin your deliberations.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important. This is true even though the instructions I gave you at the beginning of and during trial are not repeated here.

INSTRUCTION NO. 17

If you find Rembrandt is entitled to recover damages, you must consider only the following items:

1. The reasonable cost of demolition and clean-up.

Note: Costs incurred for subrogation, forensic, and litigation-related expenses are not recoverable as costs of demolition and clean-up.

2. The reasonable cost of repairing the barns damaged in the collapse.

Note: The costs of repairs cannot exceed the actual value of the barns, less deductions for depreciation, usage, and age.

3. The reasonable cost of repairing or replacing other miscellaneous property that was damaged.

Note: The costs of repairs and replacement of property cannot exceed either the fair market value of the property repaired, or the cost of repair, less deductions for depreciation, usage, and age.

4. The reasonable cost of replacing the destroyed poultry.

5. The profits Rembrandt lost because of the collapse.

Note: Damages for lost profits must be established with reasonable certainty and may not be based upon speculation and conjecture. Damages for lost profits must have been foreseeable to Tecno at the time of its sale of the poultry caging system to Rembrandt.

You must use your sound judgment based upon an impartial consideration of the evidence. Your judgment must not be exercised arbitrarily, or out of sympathy or prejudice, for or against the parties. The amount you assess for any item of damage must not exceed the amount caused by a party 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.

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 will be your item of damage.

INSTRUCTION NO. 18

There are rules you must follow when you go to the jury room to deliberate and return with your verdict.

First, you will select a foreperson. That person will preside over your discussions and speak for you here in court.

Second, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement, if you can do this without going against what you believe to be the truth, because all jurors have to agree on the verdict. Each of you must come to your own decision, but only after you have considered all the evidence, discussed the evidence fully with your fellow jurors, and listened to the views of your fellow jurors. Do not be afraid to change your mind if the discussion persuades you that you should. But, do not come to a decision just because other jurors think it is right, or just to reach a verdict. Remember you are not for or against any party. You are judges — judges of the facts. Your only job is to study the evidence and decide what is true.

Third, if you need to communicate with me during your deliberations, send me a note signed by one or more of you. Give the note to the court security officer and I will answer you as soon as I can, either in writing or here in court. While you are deliberating, do not tell anyone - including me - how many jurors are voting for any side.

Fourth, your verdict has to be based only on the evidence and on the law that I have given to you in my instructions. Nothing I have said or done was meant to suggest what I think your verdict should be. The verdict is entirely up to you.

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INSTRUCTION NO. 18 (Continued)

Finally, the verdict form is your written decision in this case. You will take this form to the jury room, and when you have all agreed on the verdict, your foreperson will fill in the forms, sign and date them, and tell the court security officer that you are ready to return to the courtroom.

DATED this ____ day of February, 2024.

C.J. Williams
Chief Judge
United States District Court
Northern District of Iowa

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

REMBRANDT ENTERPRISES, INC.,

Plaintiff,

vs.

TECNO POULTRY EQUIPMENT, SpA,

Defendant.

No. 21-CV-4007-CJW-MAR

VERDICT FORM

Question No. 1: With respect to Rembrandt’s claim for negligent supervision, was Tecno at fault? Answer “yes” or “no.”

ANSWER: _____

NOTE: If your answer is “no,” do not answer any further questions. Instead, have your foreperson sign and date this form, and alert the Court Security Officer, because you have completed your deliberations. If your answer is “yes,” proceed to answer Question No. 2.

Question No. 2. Was the fault of Tecno a cause of any item of damage to Rembrandt? Answer “yes” or “no.”

ANSWER: _____

NOTE: If your answer is “no,” do not answer any further questions. Instead, have your foreperson sign and date this form, and alert the Court Security Officer, because you have completed your deliberations. If your answer is “yes,” proceed to answer Question No. 3.

Question No. 3. With respect to Tecno’s claim that Rembrandt’s negligence caused the collapse, was Rembrandt at fault? Answer “yes” or “no.”

ANSWER: _____

NOTE: If your answer is “no,” do not answer Question No. 4 or Question No. 5, and proceed to answer Question No. 6. If your answer is “yes,” proceed to answer Question No. 4.

Question No. 4. Was Rembrandt’s fault a cause of any damage to Rembrandt? Answer “yes” or “no.”

ANSWER: _____

NOTE: If your answer is “no,” do not answer Question No. 5, and proceed to answer Question No. 6. If your answer is “yes,” proceed to answer Question No. 5.

Question No. 5. What percentage of the total fault do you attribute to Rembrandt and what percentage of the total fault do you attribute to Tecno? The percentages must total 100%.

Tecno	_____	%
Rembrandt	_____	%
TOTAL	100%	

NOTE: If you find the plaintiff is more than 50% at fault, do not answer Question No. 6. Sign and date the verdict form on the next page. If you find the plaintiff is 50% or less at fault, proceed to answer Question No. 6.

Question No. 6. State the amount of damages sustained by Rembrandt as to each of the following items of damage. Do not take into consideration any reduction of damages due to Rembrandt's fault. If Rembrandt has failed to prove any item of damage, enter "0" for that item.

ANSWER:

- | | | |
|----|--|----------|
| 1. | The reasonable cost of demolition and clean-up. | \$ _____ |
| 2. | The reasonable cost of repairing the barns. | \$ _____ |
| 3. | The reasonable cost of repairing or replacing other miscellaneous property that was damaged. | \$ _____ |
| 4. | The reasonable cost of replacing the destroyed poultry. | \$ _____ |
| 5. | The value of Rembrandt's lost profits. | \$ _____ |
| | Total damages: | \$ _____ |

FOREPERSON

DATE