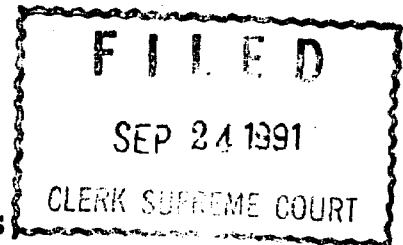


IN THE COURT OF APPEALS OF IOWA

No. 1-220 / 90-1365



DAVID DOWNS and LYNETTE DOWNS; CHRISTOPHER DOWNS,
A Minor, by LYNETTE DOWNS, His Mother and Next Friend;
JESSICA DOWNS, a Minor, by LYNETTE DOWNS, Her Mother
and Next Friend; and RAQUEL DOWNS, a Minor, by
LYNETTE DOWNS, Her Mother and Next Friend,

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Appellants,

vs.

A & H CONSTRUCTION, LTD.,

Appellee.

Appeal from the Iowa District Court for Polk County,
Ray Hanrahan, Judge.

Injured employee of uninsured subcontractor and his
family appeal district court's summary judgment for the
general contractor. **AFFIRMED BY OPERATION OF LAW.**

Steven C. Kaiser and Michael M. Sellers of Dreher,
Wilson, Simpson, Jensen, Sellers, Butters, Adams and
Kaiser, P.C., Des Moines, for appellants.

Diane M. Stahle and Gene R. LaSuer of Davis,
Hockenberg, Wine, Brown, Koehn and Shors, P.C., Des Moines,
for appellee.

Heard by Oxberger, C.J., and Donielson and Schlegel,
JJ., but decided en banc.

PER CURIAM

The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1989).

AFFIRMED.

For affirmance: Donielson, Sackett and Habhab, JJ.

For reversal: Oxberger, C.J., and Schlegel and Hayden, JJ.