

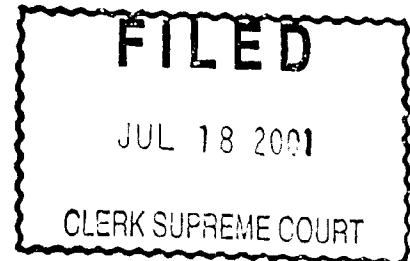
IN THE COURT OF APPEALS OF IOWA

No. 1-240 / 99-1723
Filed July 18, 2001

CHERYL R. KLINGAMAN,
Plaintiff-Appellant,

vs.

AMERUS HOME SERVICES, INC.,
d/b/a/ A IOWA REALTY CO., INC., LINDA
KENWORTHY, SHARON CHRISTENSEN,
MEAD MECHANICAL CONTRACTING,
STEVE MEAD, CARL JACKSON and FARMERS
NATIONAL COMPANY,
Defendants-Appellees.



Appeal from the Iowa District Court for Polk County, Scott D. Rosenberg,
Judge.

Klingaman appeals from the district court ruling granting defendants a
directed verdict in her suit for breach of contract, fraud, negligent
misrepresentation, and negligence in connection with her purchase of a home
with septic problems. **AFFIRMED.**

Don Schroeder and Dennis A. Bjorklund, Coralville, for appellant.

Jeffrey A. Boehlert of Patterson Law Firm, Des Moines, for appellees
Christensen and Amerus Home Services.

Dale A. Knoshaug and Michael D. Ensley of Hanson, Bjork & Russell, Des
Moines, for appellees Mead and Mead Mechanical Contracting.

John Casper of Flander, Casper & Rosien, P.C., Winterset, for appellee
Kenworthy.

William B. Serangeli of Smith, Schneider, Stiles, & Serangeli, P.C., Des
Moines, for appellees Carl Jackson and Farmers National Company.

Heard by Streit, P.J., and Miller and Vaitheswaran, JJ.

STREIT, P.J.

Cheryl Klingaman, having lost her civil lawsuit, raises several arguments on appeal. She argues the district court should not have directed verdicts for the defendants, the district court should not have excluded the testimony of two witnesses, and her trial attorney rendered ineffective legal assistance. We affirm the district court.

I. Background.

In 1997 Cheryl Klingaman purchased a house located in rural Madison County. After moving into the house, she began experiencing problems with its antiquated septic system. Because of these problems, she sued the following parties for negligence, fraudulent misrepresentation, fraudulent concealment, and/or breach of contract:

- Sharon Christensen, Klingaman's real estate agent;
- Iowa Realty Company, Inc., Christensen's real estate company;
- Linda Kenworthy, the previous owner and seller of the house;
- Carl Jackson, Kenworthy's real estate agent;
- Farmers National Company, Jackson's real estate company;
- Mead Mechanical Contracting, the company that inspected the septic system; and
- Steve Mead, the owner of Mead Mechanical Contracting.

The district court directed verdicts for all of the defendants on all of Klingaman's claims. She appeals.

II. Disposition.

Klingaman argues the district court should not have directed verdicts for the defendants "because there was ample evidence to support [her] claim for

liability and damages.” She does not cite legal authority in her brief pertaining to her various claims (negligence, fraudulent misrepresentation, fraudulent concealment, and breach of contract) or identify the elements of those claims. See Iowa R. App. P. 14(a)(3). She does not identify the specific claims she is appealing—she only makes general factual assertions that may or may not support certain elements of her various claims. Without more, her first argument is waived.

Klingaman also argues the district court should not have excluded “expert witness testimony regarding lack of septic system.” In her brief she asserts this unidentified expert witness “was prepared to testify about septic systems.” She does not cite to the place in the record where she made an offer of proof as to the specific evidence he or she might have presented. See Iowa R. App. P. 14(a)(5); *State v. Schutz*, 579 N.W.2d 317, 318-19 (Iowa 1998) (noting it is generally necessary to offer proof of excluded testimony to preserve error). She does not explain how his or her “testimony would have been sufficient to defeat the Trial Court’s granting of Defendants’ Motion for Directed Verdict.” Klingaman’s second argument is also waived.

Similarly, Klingaman argues the district court should not have excluded “lay witness testimony documenting conversations critical to [her] claim.” At trial Klingaman attempted to elicit testimony from Teresa Antrim regarding conversations she had purportedly had with two of the defendants, Christensen and Jackson, about the location of the septic system at issue. The defendants objected and made a motion to limit Antrim’s testimony to the disclosure

Klingaman had made in her answer to a particular interrogatory.¹ After Klingaman's offer of proof, the district court sustained the motion. We agree the excluded testimony exceeded Klingaman's disclosure that Antrim would "[t]estify as to the condition of the property." Klingaman has not shown the district court abused its discretion.

Finally, Klingaman argues the district court's decision directing verdicts for the defendants should be reversed "because [her] counsel provided ineffective legal assistance." "The law regards the neglect of an attorney as the client's own neglect, and will give no relief from the consequences thereof." *In re Marriage of Johnson*, 499 N.W.2d 326, 327 (Iowa Ct. App. 1993) (quoting *Jones v. Leech*, 46 Iowa 186, 187 (1877)). Klingaman has not presented sufficient bases for departing from this precedent.

We affirm the district court.

AFFIRMED.

¹ The interrogatory reads, in part, as follows:

[S]et forth the name . . . of each individual the Plaintiff intends to call as a witness in this cause and for each such individual set forth a summary of the facts and information believed to be possessed by such individual.