FILED
APR 24 1990
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 0-29 / 89-441

**ROGER M. JOHNSON** and **ROGER W. JOHNSON,**

Appellees/Cross-Appellants,

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vs.

**HOLLY D. RANKIN** and **WILLIAM G. RANKIN,**

Appellants/Cross-Appellees.

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Appeal from the Iowa District Court for Scott County, Margaret S. Briles, Judge.

Appellants appeal the district court's grant of a new trial. **AFFIRMED BY OPERATION OF LAW.**

Ralph D. Sauer and Mark A. Woollums of Betty, Neuman & McMahon, Davenport, for appellants.

John O. Moeller, Davenport, for appellees.

Heard by Oxberger, C.J., and Donielson and Habhab, JJ., but considered en banc.

**PER CURIAM**

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The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1987).

**AFFIRMED.**

For affirmance: Schlegel, Hayden, and Sackett, JJ.

For affirming in part and reversing in part: Oxberger, C.J., and Donielson and Habhab, JJ.