

Appendix

Appendix A: Eighth Circuit Court of Appeals Opinion.....	1a
Appendix B: District Court Final Order.....	5a
Appendix C: Jury Verdict.....	23a
Appendix D: District Court Order	25a

United States Court of Appeals
For The Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Stephanie N. O'Banion
Acting Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
www.ca8.uscourts.gov

May 24, 2024

Kimberly Ann Smith
814 N. Sixth Avenue
Washington, IA 52353

RE: 23-2657 Kimberly Smith v. Menard, Inc.

Dear Kimberly Ann Smith:

The court has issued an opinion in this case. Judgment has been entered in accordance with the opinion.

Please review Federal Rules of Appellate Procedure and the Eighth Circuit Rules on post-submission procedure to ensure that any contemplated filing is timely and in compliance with the rules. Note particularly that petitions for rehearing and petitions for rehearing en banc must be received in the clerk's office within 14 days of the date of the entry of judgment. Counsel-filed petitions must be filed electronically in CM/ECF. Paper copies are not required. Except as provided by Rule 25(a)(2)(iii) of the Federal Rules of Appellate Procedure, no grace period for mailing is allowed. Any petition for rehearing or petition for rehearing en banc which is not received within the 14 day period for filing permitted by FRAP 40 may be denied as untimely.

Stephanie N. O'Banion
Acting Clerk of Court

DNS

Enclosure(s)

cc: Clerk, U.S. District Court, Southern Iowa
Honorable Stephen B. Jackson
Veronica Kirk
Kerrie Marie Murphy
Anne E. Updegraff

District Court/Agency Case Number(s): 3:21-cv-00012-SBJ

United States Court of Appeals
For the Eighth Circuit

No. 23-2657

Kimberly Ann Smith

Plaintiff - Appellant

v.

Menard, Inc.

Defendant - Appellee

Appeal from United States District Court
for the Southern District of Iowa - Eastern

Submitted: May 17, 2024

Filed: May 24, 2024

[Unpublished]

Before LOKEN, SHEPHERD, and KOBES, Circuit Judges.

PER CURIAM.

Kimberly Smith appeals after the district court¹ entered judgment pursuant to an adverse jury verdict in her pro se negligence action. After careful review of the

¹The Honorable Stephen B. Jackson, Jr., United States Magistrate Judge for the Southern District of Iowa, to whom the case was referred for final disposition by consent of the parties pursuant to 28 U.S.C. § 636(c).

record and consideration of the issues properly before us, we find no basis for reversal. We conclude the district court did not err in ruling on the admissibility of certain evidence and testimony, see Vogt v. State Farm Life Ins. Co., 963 F.3d 753, 770-71 (8th Cir. 2020) (abuse of discretion review of evidentiary rulings), refusing to strike a juror for cause, see Moran v. Clarke, 443 F.3d 646, 650 (8th Cir. 2006) (abuse of discretion review of denial of strike for cause), and denying her motions for contempt and for a spoliation instruction, see Wal-Mart Stores, Inc. v. Cuker Interactive, LLC, 27 F.4th 622, 624 (8th Cir. 2022) (abuse of discretion review of denial of contempt order); Greyhound Lines, Inc. v. Wade, 485 F.3d 1032, 1035 (8th Cir. 2007) (abuse of discretion review of decision on spoliation sanction). We find no merit to Smith's remaining arguments.

The judgment is affirmed. See 8th Cir. R. 47B. We deny Smith's pending motions.

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA**

KIMBERLY ANN SMITH

CIVIL NUMBER: 3:21-cv-00012-SBJ

Plaintiff(s),

v.

JUDGMENT IN A CIVIL CASE

MENARD, INC.

Defendant(s),

☒ **JURY VERDICT.** This action came before the Court for trial by jury. The issues have been tried and the jury has rendered its verdict.

☐ **DECISION BY COURT.** This action came before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED:

Judgment is entered in favor of the Defendant, Menard, Inc. and against the Plaintiff, Kimberly Ann Smith

Date: June 15, 2023

CLERK, U.S. DISTRICT COURT

/s/ Brian Phillips

By: Deputy Clerk

**Additional material
from this filing is
available in the
Clerk's Office.**