

**IN THE COURT OF APPEALS OF IOWA**

No. 9-389 / 08-1632  
Filed June 17, 2009

**HOFFMAN-RETTIG, L.L.C.,**  
Plaintiff-Appellant,

**vs.**

**SOUTH CENTRAL COOPERATIVE,**  
Defendant-Appellee.

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**SOUTH CENTRAL COOPERATIVE,**  
Counterclaim Plaintiff,

**vs.**

**HOFFMAN-RETTIG, L.L.C.,**  
Counterclaim Defendant.

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Appeal from the Iowa District Court for Warren County, Paul R. Huscher,  
Judge.

Hoffman-Rettig, L.L.C. appeals the district court's ruling on its breach of  
contract claim. **AFFIRMED.**

Robert Malloy and Benjamin T. Cook of Malloy Law Firm, Goldfield, for  
appellant.

John Werner of John Werner, P.L.C., Toledo, for appellee.

Considered by Vaitheswaran, P.J., and Potterfield and Doyle, JJ.

**VAITHESWARAN, P.J.**

Hoffman-Rettig, L.L.C. (Hoffman-Rettig) is an egg-production facility. South Central Cooperative (South Central) provided feed for the chickens that hatched the eggs. When one of the flocks did not produce eggs to Hoffman's expectations, Hoffman-Rettig sued South Central for breach of contract, breach of implied warranty, and negligence. Hoffman-Rettig alleged that the feed failed to conform to specifications and, as a result, the company sustained \$60,000 in damages.

Prior to trial, South Central filed a brief setting forth the elements of each of Hoffman-Rettig's claims, with supporting case law.<sup>1</sup> Hoffman-Rettig responded with its own brief conceding that South Central "accurately listed . . . the necessary elements of proof under Iowa law for the three theories of recovery."

Following a bench trial, the district court found insufficient proof that the feed "caused the damages that the plaintiff urges. Or that it caused, in fact, any damages." The court ruled as follows:

The court finds the plaintiff has not met its burden of proof as to either the liability for any reduction in eggs or death of chickens. Nor has the plaintiff proved the amount of any damages. And the plaintiff's petition is dismissed.

On appeal, Hoffman-Rettig does not challenge the district court's finding of no liability. The company instead focuses only on damages. The absence of argument on liability is fatal. Liability was a predicate to damages and, as the

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<sup>1</sup> South Central's brief cited the following opinions: *Berryhill v. Hatt*, 428 N.W.2d 647, 652 (Iowa 1988) (breach-of-contract); *Van Wyk v. Norden Laboratories, Inc.*, 345 N.W.2d 81, 84 (Iowa 1984) (breach of implied warranty); *Faber v. Herman*, 731 N.W.2d 1, 7 (Iowa 2007) (negligence).

district court's "no liability" determination is unchallenged, we affirm on that basis. See Iowa R. App. P. 6.14(1)(c) ("Failure in the brief to state, to argue or to cite authority in support of an issue may be deemed waiver of that issue.").

**AFFIRMED.**