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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0648**

Michael Nassif,
Appellant,

vs.

Lowell Penz, et al.,
Respondents.

**Filed March 15, 2021
Affirmed
Bryan, Judge**

Olmsted County District Court
File No. 55-CV-18-537

William L. French, French Law Office, Rochester, Minnesota (for appellant)

James P. Ryan, Jr., Ryan Associates LLC, St. Charles, Minnesota (for respondents)

Considered and decided by Bryan, Presiding Judge; Ross, Judge; and Florey, Judge.

NONPRECEDENTIAL OPINION

BRYAN, Judge

After a jury trial in this dispute regarding the rental of a self-storage unit, appellant argues that the district court made three errors. First, appellant challenges the district court's decision not to include appellant's proposed questions regarding respondents' statutory and contractual liability on the special verdict form. Second, appellant challenges the district court's denial of his motion for a new trial, arguing that an improper question regarding waiver on the special verdict form resulted in an award of insufficient damages.

Third, appellant argues that the district court erred when it declined to instruct the jury on appellant's consumer-fraud claim. For the following reasons, we affirm the district court's decisions.

FACTS

In September 2013, appellant Michael Nassif rented two storage units from respondents Lowell Penz, Dennis Kieffer, K&P Properties, and Lock-Away Storage. The parties signed identical written rental agreements, one for each unit. The agreements included the following general language incorporating applicable Minnesota statutes: "If debt is not satisfied by said date, lessor will take necessary legal action and sell personal property at public or private sale as, governed by local and Minnesota State statutes, to satisfy said debt." Nassif made the first few payments, but failed to make payments after December 2013. In August 2014, respondents disposed of most of Nassif's stored items and in June 2017, respondents sold the remainder of Nassif's stored items at an auction.

On January 24, 2018, Nassif filed a complaint against respondents, alleging that respondents breached the written rental agreements and violated both the Minnesota Liens on Personal Property in Self-Service Storage Act (SSSA), Minn. Stat. §§ 514.970-.979 (2012) (amended 2014),¹ and the warehouse lien provisions of the Minnesota Uniform Commercial Code (UCC), Minn. Stat. § 336.7-210 (2020). In addition, pursuant to the private remedies subdivision of the attorney general statute, Minn. Stat. § 8.31, subd. 3a (2020), Nassif asserted a claim that respondents violated the Minnesota Prevention of

¹ The parties agreed that the pre-amendment version applies because they entered into the Rental Agreements in 2013.

Consumer Fraud Act (CFA), Minn. Stat. § 325F.69 (2020). Nassif also asserted a claim that respondents converted his property under common law. Respondents counterclaimed for breach of contract and raised an affirmative defense, claiming that Nassif waived the claims raised in the complaint.

The case proceeded to trial. A divided jury reached a verdict and awarded Nassif \$1,000 in damages and awarded respondents \$1,357.80 in damages. Nassif moved for a new trial,² and the district court denied the motion. Given the issues raised on appeal, we summarize the pertinent evidence presented at the trial, the jury instructions and verdict, and the district court's order denying Nassif's motion for a new trial.

A. Trial Evidence

The two written rental agreements were admitted as exhibits, and they authorized respondents to seize Nassif's property if Nassif was delinquent on payments. Nassif submitted an exhaustive list of the items that he believed were in the units and testified that the items included a \$2,000 sofa, a \$1,200 love seat, \$6,500 in guitars, a \$25,000 graphics printer, a \$30,000 Matco toolbox, personal photos and memorabilia, computers, valuable oriental rugs, and tools. Based on the internet searches that he conducted, Nassif estimated that his property was worth around \$300,000.

After Nassif failed to make payments, respondents sent Nassif prelien notices in January 2014 to Nassif's listed mailing address, explaining that Nassif had 14 days to pay his outstanding balance. On February 7 and 10, 2014, respondents sent notices of lien sale

² Nassif also moved for judgment as a matter of law but later withdrew that motion.

to the same mailing address, explaining that Nassif could no longer access the units and that his property would be sold after February 24, 2014, unless he paid his balance in full. On February 10, 2014, Nassif sent respondents a letter acknowledging receipt of the prelien notices and requested an extension to pay his balance in March. Nassif also testified that, in March 2014, he called respondents' office to find out how he could pay down the balance owed. Nassif did not make any other calls to respondents for nearly one year. On February 13, 2015, Nassif's attorney wrote to respondents, advising them that Nassif intended to retrieve his property and that respondents should make it available to him. On February 19, 2015, respondents replied, stating that they had already emptied the storage units and disposed of Nassif's property.

Respondents' witnesses testified that they cleared out the units in August 2014. These witnesses testified that they did not see most of the valuable items that Nassif testified were in the units. These witnesses also stated that the items that they did see were not worth as much as Nassif claimed. For example, one witness testified that he did not find any oriental rugs. He also testified that he did not see a Matco toolbox and that he would have been able to identify it because he does mechanic work. The other witness testified that he did not see a Matco toolbox, oriental rugs, or signed guitars. He also testified that he did not see a graphics printer and would have been able to identify one because he used to work in the printing industry. He further testified that there was no solid oak furniture as Nassif claimed and that the dressers were made out of particle board. He testified that the condition of the items overall was only "fair." After emptying the

units, respondents donated, sold, or disposed of the remaining items. The parties stipulated that Nassif's conduct caused respondents \$1,357.80 in damages.

B. Challenged Questions on the Jury Verdict Form

The district court did not adopt the special verdict form proposed by Nassif, which asked the jury to decide the following questions regarding alleged statutory violations: "Did any of the Defendants breach a contract," "Did any of the Defendants violate Minn. Stat. Sec. 514.972," and "Did any of the Defendants violate Minn. Stat. Sec. 336.7-210?" Recognizing that the SSSA incorporates the enforcement provisions of the UCC regarding warehouse liens, the district court expressed concern that Nassif's proposed verdict form invited the jury to make duplicative or even inconsistent findings. In addition, no separate breach of the parties' written rental agreements is alleged and no evidence of this was presented at trial.³

After hearing arguments regarding these concerns, the district court declined to use Nassif's proposed verdict form. Instead, the district court asked the jury to answer three questions regarding liability under the SSSA and the warehouse enforcement provisions of the UCC (referred to as "the Warehouse Lien law" by the district court). The jury answered these three questions as follows:

[Nassif's] claim against [respondents] for conversion under the Warehouse Lien law pursuant to the [SSSA]:

1. Did [respondents] violate any provision of the [SSSA]?

ANSWER: Yes

³ In his complaint, Nassif does not allege that respondents violated any specific provisions of the written rental agreements. Instead, Nassif alleged that the written rental agreements incorporated by reference the SSSA and the UCC. By violating the statutory requirements, Nassif alleged that respondents also necessarily breached the written rental agreements.

2. Answer only if you have answered Question 1 “Yes”:
Did [respondents] complete the requirements of the Warehouse
Lien law before disposing of [Nassif’s] personal property?

ANSWER: No

....

**[Nassif’s] claim against [respondents] for breach of
contract under the [SSSA] outside of any requirement to
comply with the Warehouse Lien law:**

5. Did [respondents] violate any provision of the [SSSA]
outside of any requirement to comply with the Warehouse Lien
law?

ANSWER: No

The district court also addressed Nassif’s claim for improper statutory conversion under the enforcement provisions of the UCC, which requires proof of a “willful violation.” The question read as follows: “3. Answer only if you have answered Question 2 “No”: Did [respondents] willfully violate the Warehouse Lien law before disposing of [Nassif’s] personal property?” The jury answered “[n]o” to this question.

Over Nassif’s objection, the district court instructed the jury regarding respondents’ affirmative defense of waiver, and included a question regarding this defense on the special verdict form. The jury answered the question regarding waiver of Nassif’s claim as follows:

**[Respondents’] affirmative defense(s) against [Nassif’s]
claims under the Warehouse Lien law pursuant [to] the
[SSSA] (answer Questions 4 only if you answered Question
2 “No”):**

4. Did [Nassif] waive his claims under the Warehouse
Lien law pursuant to the [SSSA] against [respondents]?

ANSWER: Yes

Other questions presented to the jury on the verdict form related to Nassif’s claim for common law conversion of his property, respondents’ counterclaim for breach of

contract, and damages. Nassif does not challenge these other questions, limiting his arguments on appeal to questions one, two, four, and five.

C. Decision Not to Instruct the Jury Regarding Consumer Fraud

During Nassif's case-in-chief, the district court expressed concern that Nassif's proposed jury instruction regarding his consumer-fraud claim was not supported by any evidence in the trial record. Over Nassif's objection, the district court decided not to include an instruction regarding this claim. The parties agree that the district court made this decision prior to the close of Nassif's case-in-chief. When asked at oral argument before this court if Nassif made an offer of proof before the district court, Nassif's counsel responded that he did not. There is nothing in the record or the parties' briefs to explain what evidence might have been offered that Nassif had not yet offered at the time of the district court's decision.

D. Motion for New Trial

Nassif moved for a new trial arguing that, among other errors, question five confused the jury, question four resulted in an insufficient damages award, and that the district court decided not to instruct the jury regarding consumer fraud. The district court concluded that because Nassif's breach-of-contract claim was based solely on statutory violations, Nassif was not prejudiced by the lack of a question relating only to the written rental agreements. In addition, the district court reviewed the trial evidence and concluded that it supported the damages award. The district court noted that although Nassif claimed that his property was worth \$300,000, Nassif did not call any witnesses to corroborate his testimony about what items were in the storage units or the value of any of the items. The

district court also noted that respondents presented witnesses who “testified credibly and consistently” that they did not see most of the valuable items that Nassif claimed were in the units and that the items they did see were not as valuable as Nassif claimed. The district court concluded: “Even aside from the issues of waiver and liability, a jury could reasonably conclude from this evidence that [Nassif] had not proved the amount of damages.” Last, the district court noted that Nassif did not cite any caselaw supporting his position that one cannot waive claims under the SSSA or UCC, and that “it is firmly established that a party can waive its rights arising from statutes, the constitution, contracts, or the common law.”

As to the consumer-fraud claim, the district court stated that because Nassif did not introduce evidence of fraud, he was not entitled to a jury instruction on that claim. The district court agreed with Nassif that the rental agreements did not contain all the information required by the SSSA, but concluded that Nassif did not show how the absence of this information amounts to fraud under the CFA. Accordingly, the district court denied the motion for a new trial. This appeal follows.

DECISION

Nassif challenges the inclusion of questions on the special verdict form regarding respondents’ statutory and contractual liability, the denial of his motion for a new trial due to insufficient damages, and the decision not to instruct the jury regarding Nassif’s consumer-fraud claim. We address each argument in turn, and affirm the district court’s decisions.

I. Challenge to Questions Regarding Respondents' Liability

Nassif argues that the district court erred because it included questions that distinguished between alleged violations of the SSSA and alleged violations of the UCC on the special verdict form instead of the questions that Nassif proposed. Because the jury instructions and verdict form fairly and correctly state the applicable law and reflect the allegations in the complaint, we conclude that the district court did not abuse its discretion when it provided the instructions and the special verdict form to the jury. In addition, Nassif has not shown any prejudice. Therefore, we affirm the district court's decisions.

Minnesota Rule of Civil Procedure 49.01(a) governs the use of special verdicts. Minn. R. Civ. P. 49.01(a). "A special verdict requires a jury to decide specific issues or facts of a case rather than ruling generally upon all issues." *Poppler v. Wright Hennepin Co-op. Elec. Ass'n*, 845 N.W.2d 168, 171 (Minn. 2014). "A jury instruction is erroneous if, when read as a whole, the instruction materially misstates the law, or is apt to confuse and mislead the jury." *Domagala v. Rolland*, 805 N.W.2d 14, 29 (Minn. 2011) (citation and quotation omitted). "District courts have broad discretion to decide whether to use special verdicts and what form special verdicts are to take." *Poppler*, 845 N.W.2d at 171; *see also Morlock v. St. Paul Guardian Ins. Co.*, 650 N.W.2d 154, 159 (Minn. 2002) (noting that we allow district courts "considerable latitude in selecting language used in the jury charge and determining the propriety of a specific instruction"). In addition to showing error, to warrant reversal on appeal, the objecting party must also establish that the error was prejudicial. *Christie v. Estate of Christie*, 911 N.W.2d 833, 838 (Minn. 2018) (quotation omitted).

The SSSA regulates the use and operation of self-storage facilities, including the obligations that facility owners owe to renters of storage space and the remedies available if a renter is unable to pay the storage fee. Minn. Stat. §§ 514.970-.979. For instance, an owner must provide a notice of default to the renter before it can deny the renter access to the storage space, Minn. Stat. § 514.972, subd. 4, and the rental agreement must include, among other things, a disclosure of the owner's rights upon failure to pay rent, Minn. Stat. § 514.975, subd. 1. In 2013, when the parties executed the written rental agreements in this case, the SSSA provided that facility owners obtain a lien for the rent owed and that the lien "must be enforced in the same manner as warehouse's liens under section 336.7-210." Minn. Stat. § 514.973 (incorporating by reference the enforcement provisions of the UCC regarding warehouse liens).

Nassif challenges the district court's decision not to accept his proposed special verdict form as it relates to respondents' statutory and contractual liability. Nassif's proposed verdict form included the following three questions regarding respondents' liability: (1) "Did any of the Defendants breach a contract;" (2) "Did any of the Defendants violate [the SSSA];" and (3) "Did any of the Defendants violate [the warehouse provisions of the UCC]?" Nassif asserts that the district court committed error because the special verdict form differed in two respects from the verdict form that he proposed. First, the district court did not ask the jury to determine whether respondents breached any specific provisions of the written rental agreements. Instead, the district court characterized Nassif's breach-of-contract claim as entirely derived from the alleged statutory violations, using the phrase "breach of contract under the [SSSA]" in a heading preceding jury

question number five. Second, the district court decided to ask the jury to differentiate conduct that may have violated both the SSSA and the UCC from conduct that may only have violated either the SSSA or the UCC, but not both. We are not convinced by Nassif's arguments.

Nassif first argues that his breach-of-contract claim was factually independent from the claimed statutory violations and the district court should have asked the jury to decide whether respondents violated the written rental agreements. Nassif's argument, however, mischaracterizes the complaint, the arguments of counsel before the district court, and the evidence presented. None of the facts alleged in the complaint identify any specific provisions of the parties' written rental agreements that respondents allegedly violated. Instead, the breach-of-contract claim is based on a single sentence in the written rental agreements, generally referring to applicable statutes: "If debt is not satisfied by said date, lessor will take necessary legal action and sell personal property at public or private sale as, governed by local and Minnesota State statutes, to satisfy said debt." Similarly, the parties never argued to the district court that the allegations concerned any other provision of the written rental agreements, and they acknowledged that the identified contractual breach was based on the same conduct that also allegedly violated the SSSA and the enforcement provisions of the UCC regarding warehouse liens. Finally, the evidence presented did not concern any provisions of the written rental agreements other than the general statutory reference. Given the allegations in the complaint, the arguments of counsel to the district court, and the evidence presented, we conclude that the district court

did not abuse its discretion when it asked question five, tying Nassif's breach-of-contract claim to the alleged statutory violations.

Nassif also argues that the district court erred when it differentiated between conduct that violated both the SSSA and the UCC from conduct that may have only violated one or the other. Again, we disagree. Nassif's proposed verdict form did not distinguish between respondents' obligations under the written rental agreements, under the SSSA, and under the UCC. If the jury agreed that a single act or decision of respondents violated the enforcement provisions of the UCC relating to warehouse liens, then the jury would answer affirmatively to Nassif's proposed UCC question and also answer affirmatively to Nassif's proposed SSSA and breach-of-contract questions. Similarly, the jury would also answer affirmatively to each of the three questions that Nassif proposed if the jury believed that respondents committed three independent acts or decisions, one that violated only the SSSA apart from the UCC, one that violated the UCC and SSSA, and one that breached the written rental agreements (apart from the statutory requirements of the SSSA and the UCC). As explained by the district court, to avoid the possibility of duplicative or inconsistent findings and because Nassif did not plead a breach-of-contract claim independent of the SSSA and the UCC, differentiation was necessary. There may have been a better way to phrase question five and the heading that preceded it, but we do not agree with Nassif that the district court abused its discretion in differentiating between the theories of respondents' liability addressed by questions one, two, and five. The verdict form as provided to the jury fairly and correctly stated the law while also requiring the jury

to differentiate conduct that simultaneously violated the SSSA and the UCC from separate acts or decisions that independently violated either the SSSA or the UCC, but not both.

Finally, Nassif argues prejudice only in passing and in conclusory terms, without analysis. Such conclusory statements are not sufficient here. In addition, the conclusory statements regarding prejudice are again premised on the mischaracterization of his breach-of-contract claim. Because Nassif did not identify a breach of a specific provision of the written rental agreements (apart from the statutory reference) in his complaint, his arguments before the district court, or the evidence presented at trial, we conclude that Nassif has not demonstrated any prejudice resulting from the district court's decision to differentiate respondents' potential liability under the SSSA and the UCC.

II. Insufficient Damages based on Question Four

Appellant argues that question four “eviscerated” his damages amount, and he is entitled to a new trial. Because the record does not contain any indication that the jury award was given under the influence of passion or prejudice and because the jury award is consistent with the evidence, we conclude that the district court did not abuse its discretion when it denied Nassif's motion for a new trial.

Minnesota Rule of Civil Procedure 59.01(e) authorizes the district court to grant a new trial for insufficient damages “appearing to have been given under the influence of passion or prejudice.” Minn. R. Civ. P. 59.01(e); *Gale v. Howard*, 413 N.W.2d 234, 237 (Minn. App. 1987) (“The test is whether the award is so inadequate that it could only have been rendered on account of passion or prejudice.”). Speculation as to the influence of prejudice or passion is an insufficient basis to grant a new trial. *Vadnais v. Am. Family*

Mut. Ins. Co., 243 N.W.2d 45, 49 (Minn. 1976). In determining whether a verdict is insufficient, the district court “must consider all the evidence, the demeanor of the parties, and the circumstances of the trial.” *Johnson v. Washington County*, 518 N.W.2d 594, 602 (Minn. 1994) (quotation omitted). Moreover, we have recognized the “well-established rule that motions for a new trial should be granted cautiously and sparingly and only in the furtherance of substantial justice.” *Leuba v. Bailey*, 88 N.W.2d 73, 83 (Minn. 1957). With this in mind, we review Nassif’s argument regarding insufficient damages for an abuse of discretion: the district court, “having heard the testimony and observed the parties and witnesses, is in a better position than this court to determine whether the damages were given under the influence of passion and prejudice, and in the absence of a clear abuse of that discretion its action will not be reversed.” *Gale*, 413 N.W.2d at 237 (quotation omitted).

In this case, the district court included the following question on the special verdict form: “4. Did [Nassif] waive his claims under the [UCC] pursuant to the [SSSA] against [respondents]?” The jury answered in the affirmative. Nassif argues that because the district court included this question, the jury awarded him insufficient damages, and he is entitled to a new trial. We disagree for three reasons. First, Nassif makes no argument that the jury’s verdict was “rendered on account of passion or prejudice,” and we see no indication of passion or prejudice in the record before us. Second, the trial evidence supports the damages award regardless of the affirmative defense of waiver addressed in question four. For example, although Nassif claimed that his property was worth \$300,000, Nassif relied solely on his own valuation to support this testimony. Nassif did not call any

witnesses to corroborate his testimony about the items' values. In addition, respondents presented witnesses who testified consistently that they did not see most of the items that Nassif claimed were in the storage units. These witnesses also testified that the items they did see were not as valuable as Nassif claimed. This evidence supports the jury's award.

Third, Nassif appears to misread the authority on which he relies. By citing to this court's decision in *Johanns v. Minn. Mobile Storage Inc.*, 720 N.W.2d 5 (Minn. App. 2006), *review denied* (Minn. Oct. 25, 2006), Nassif appears to misconstrue the issue addressed in question four. Specifically, Nassif conflates the ability to contract around some provisions of the SSSA with the equitable, affirmative defense of waiver of a cause of action. In *Johanns*, we upheld an exculpatory clause and concluded that parties can, by agreement, partially limit the self-storage facility owner's liability so long as the parties' contract does not totally exempt the owner from all liability. 720 N.W.2d at 13-14. The statutory language addressed in *Johanns* concerns whether parties can contract around the requirements of the SSSA. *Id.* It does not relate to the affirmative defense that respondents raised in this case.

Notably, Nassif does not argue that the SSSA abrogated the equitable, affirmative defense of waiver. Had he made such an argument, we would endeavor to interpret the SSSA to determine if its provisions abrogated the common law defense of waiver of a claim. See *Brekke v. THM Biomedical, Inc.*, 683 N.W.2d 771, 776 (Minn. 2004) ("[W]e have repeatedly held that statutes will be presumed to not eliminate equitable remedies and are to be strictly construed so as to not supplant or restrict equity's normal function as an aid to complete justice." (quotation omitted)), *rehearing denied* (Minn. Aug. 4, 2004); *Ly*

v. Nystrom, 615 N.W.2d 302, 314 (Minn. 2000) (“We have . . . long presumed that statutes are consistent with the common law, and if a statute abrogates the common law, the abrogation must be by express wording or necessary implication.” (citation omitted)); *Shaw Acquisition Co. v. Bank of Elk River*, 639 N.W.2d 873, 877 (Minn. 2002) (“Unless statutory provisions instruct otherwise, the conclusion we reach under the common law will stand.”). In the absence of an argument regarding statutory abrogation of the common law, we decline to address this issue. See *State, Dep’t of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (concluding that appellate courts decline to reach issues that are inadequately briefed); *Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944) (“[O]n appeal error is never presumed. It must be made to appear affirmatively before there can be reversal . . . [and] the burden of showing error rests upon the one who relies upon it.”).

III. Decision not to Instruct the Jury Regarding Nassif’s Consumer-Fraud Claim

Nassif argues that the district court erred when it declined to instruct the jury on his consumer-fraud claim. Because Nassif did not introduce evidence to support this claim and Nassif did not make an offer of proof explaining what evidence he would have introduced, Nassif was not entitled to an instruction on his consumer-fraud claim.

Generally, “a party is entitled to specific instructions based upon his theory of the case.” *Weiby v. Wente*, 264 N.W.2d 624, 628 (Minn. 1978); *Domtar, Inc. v. Niagara Fire Ins. Co.*, 563 N.W.2d 724, 734 (Minn. 1997) (“[A] party is entitled to have the jury consider important questions of material fact raised by the pleadings and the evidence.”). But not every claim merits submission to a jury: “there must be evidence to support the theory

advanced by a litigant before he is entitled to an instruction on the proposition involved in the theory.” *Weiby*, 264 N.W.2d at 629; *In re Shigellosis Litig.*, 647 N.W.2d 1, 9 (Minn. App. 2002) (affirming district court decision to not instruct jury on negligence because appellant failed to introduce evidence establishing standard of care); *Commercial Assocs., Inc. v. Work Connection, Inc.*, 712 N.W.2d 772, 783 (Minn. App. 2006) (affirming district court decision to not instruct jury on breach-of-contract claim based on lack of evidence). “This court reviews de novo whether the evidence is sufficient to submit a party’s theory to a jury.” *Commercial Assocs.*, 712 N.W.2d at 773.

Under Minnesota Statutes section 8.31, a private litigant injured by violations of Minnesota laws “respecting unfair, discriminatory, and other unlawful practices in business, commerce, or trade,” including violations of the CFA, can assert a cause of action. Minn. Stat. § 8.31, subds. 1, 3a (2020). The private litigant must establish that the action has a “public benefit.” *E.g., Ly*, 615 N.W.2d at 314 (“[Section 8.31] applies only to those claimants who demonstrate that their cause of action benefits the public.”). In addition, a claim under the private attorney general provisions of section 8.31 alleging a violation of CFA, has the following two elements: (1) there must be an intentional misrepresentation relating to the sale of merchandise; and (2) the misrepresentation must have caused damage to the plaintiff. *Group Health Plan, Inc., v. Philip Morris Inc.*, 621 N.W.2d 2, 12 (Minn. 2001). Unlike under the common law, a plaintiff’s reliance on the defendant’s misrepresentation is not an independent, third element of a claim under the CFA. *Id.* Nevertheless, individual reliance is embedded as a component of the causal nexus element under the CFA because a fraudulent or misleading statement cannot by its

nature cause harm unless the statement “had some impact on” inducing the individual plaintiff’s actions. *State v. Minn. Sch. of Bus., Inc.*, 935 N.W.2d 124, 141 (Minn. 2019) (quoting *Grp. Health*, 621 N.W.2d at 14).

In this case, the district court declined to instruct the jury on Nassif’s consumer-fraud claim because Nassif did not present sufficient evidence of his claim to merit submitting the claim to a jury. After reviewing the record on appeal, we conclude that the evidence presented was insufficient to allow the jury to find in Nassif’s favor on his CFA claim.

Initially, we must address two threshold issues, one regarding the timing of the district court’s decision and one regarding the limited record submitted to this court. The parties agree that the district court made its decision before the close of Nassif’s case-in-chief. At oral argument, when asked if Nassif made an offer of proof, Nassif’s attorney stated that no offer of proof was made to the district court. In the absence of a proffer, we are unable to review whether the district court erred in making its decision prior to the close of Nassif’s case, and limit our discussion to the evidence already presented at the time of the district court’s decision. See *Becker v. Mayo Found.*, 737 N.W.2d 200, 215 (Minn. 2007) (“An offer of proof is a prerequisite to motions for a new trial and appeals based on exclusion of evidence.”); *Eisenschenk v. Eisenschenk*, 668 N.W.2d 235, 243 (Minn. App. 2003), *review denied* (Minn. Nov. 25, 2003) (“[A] party cannot complain about a district court’s failure to rule in [the party’s] favor when one of the reasons it did not do so is because that party failed to provide the district court with the evidence that would allow the district court to fully address the question.”).

In addition, we observe that Nassif did not submit the entire trial transcript to this court. Generally, the appellant bears the burden of providing an adequate record. *Mesenbourg v. Mesenbourg*, 538 N.W.2d 489, 494 (Minn. App. 1995). The record must be sufficient to show the alleged errors and all matters necessary for consideration of the questions presented. *Truesdale v. Friedman*, 127 N.W.2d 277, 279 (Minn. 1964). Where the appellate record is incomplete and we are unable to determine whether the trial court erred, there is no cause for reversal. *Mitterhauser v. Mitterhauser*, 399 N.W.2d 664, 668 (Minn. App. 1987). Our review of the district court's decision that the evidence presented did not support a jury instruction regarding Nassif's consumer-fraud claim is necessarily limited to the record submitted.

In reviewing the limited appellate record of the evidence presented to the district court, we conclude that there is insufficient evidence to merit submission of the consumer-fraud claim to the jury. Nassif argues that the written agreements themselves are sufficient to satisfy the elements of his consumer-fraud claim, but we are not persuaded. The written rental agreements do not establish an intentional misrepresentation or deceptive trade practice, and there is no evidence in the appellate record that respondents knowingly made intentional misrepresentations in the written rental agreements or in any other statement. Likewise, the record contains insufficient evidence to satisfy the causal nexus requirement. There is no apparent evidence that any of respondents' statements—in the written rental agreements or any other statement—induced Nassif's reliance or otherwise impacted Nassif's actions. We also discern no evidence to satisfy the requirement under the private attorney general statute that the claim benefits the public. While written storage locker

rental agreements should mirror the applicable statutory provisions, the damages in this case (the loss of Nassif's property) do not automatically flow from the alleged differences between the provisions of the written rental agreements and the SSSA and the UCC. Thus, introducing the written rental agreements into evidence, without more, does not establish the requisite public benefit. For these reasons, the evidence presented does not support a jury instruction regarding Nassif's consumer-fraud claim under the private attorney general statute.

Affirmed.