

STATEMENT OF THE ISSUES

- I. **WHETHER THE TRIAL COURT ERRED IN GIVING JURY INSTRUCTION NO. 19 REGARDING ERRORS IN JUDGMENT THEREBY DENYING PLAINTIFF A FAIR TRIAL.**
- II. **WHETHER THE TRIAL COURT ERRED IN ADMITTING PREVIOUSLY UNDISCLOSED EXPERT TESTIMONY ON THE ISSUE OF CAUSATION THEREBY DENYING PLAINTIFF A FAIR TRIAL.**
- III. **WHETHER THE TRIAL COURT ERRED IN ADMITTING SCIENTIFICALLY UNRELIABLE EXPERT TESTIMONY ON THE ISSUE OF CAUSATION THEREBY DENYING PLAINTIFF A FAIR TRIAL.**

STATEMENT OF THE ISSUES

1. DID THE TRIAL COURT ERR IN GIVING JURY INSTRUCTION 16 REGARDING ERROR IN JUDGMENT?

The trial court held that Instruction No. 16 properly stated the law in South Dakota.

2. DID THE TRIAL COURT ERR IN ADMITTING A PREVIOUSLY UNDISCLOSED OPINION OF DEFENSE EXPERT DR. DEVON GOETZ CONCERNING CAUSATION?

After giving Plaintiff an opportunity to depose Dr. Goetz and offering Plaintiff a continuance, the trial court ruled Dr. Goetz's opinion concerning causation could be admitted.

3. DID THE TRIAL COURT ERR IN ADMITTING DR. GOETZ'S TESTIMONY REGARDING CAUSATION BECAUSE SUCH TESTIMONY WAS UNRELIABLE?

The trial court determined Dr. Goetz was qualified to render an opinion concerning causation.

4. DID THE TRIAL COURT ERR IN ALLOWING PLAINTIFF TO ENTER INTO EVIDENCE THE AMOUNT CHARGED FOR MEDICAL EXPENSES AS OPPOSED TO THE AMOUNT ACTUALLY PAID BY MEDICARE AND MEDICAID?

The trial court ruled that Plaintiff was entitled to seek recovery of the full amount of the medical bills charged, even though a substantial portion of the bills had been written off by care providers pursuant to agreements with Medicare and Medicaid.

5. DID THE TRIAL COURT ERR IN DENYING DEFENDANTS' MOTION TO COMPEL PRODUCTION OF A REPORT REVIEWED BY PLAINTIFF'S EXPERT?

The trial court ruled that Defendants were not entitled to discover information provided to Dr. Holte concerning another expert's opinion.