

WEDNESDAY, APRIL 23, 2008
9:00 A.M.

NO. 1

#24646

KYLENE KAY HOUGHTALING,
Plaintiff and Appellee,

vs.

MAYNARD FOUBERG,
Defendant and Appellant.

Mr. Michael J. Schaffer
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(FOR APPELLANT)

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(FOR APPELLEE)

The Honorable Jon R. Erickson
Third Judicial Circuit
Beadle County Clerk of Courts

(CIV 06-117)

STATEMENT OF THE ISSUES

1. **Whether the trial court erred in granting Houghtaling's New Trial Motion when the jury, by special verdict, determined Houghtaling had failed to establish that Foubert's negligence was the proximate cause of her claimed injuries.**

Bridge v. Karl's, Inc., 538 N.W.2d 521(S.D. 1995).

Fechner v. Case, 660 N.W.2d 631, 2003 SD 37.

Zahn v. Musick, 605 N.W.2d 823, 2000 SD 26.

Freeman v. Berg, 482 N.W.2d 32 (S.D. 1992).

2. **Whether the trial court erred in ruling that Houghtaling was entitled to a directed verdict on contributory negligence and failing to instruct on Houghtaling's contributory negligence.**

Thompson v. Mehlhaff, 698 N.W.2d 512, 2005 SD 69.

Davis v. Knippling, 576 N.W.2d 525, 1998 SD 31.

Alborn v. Arms, 74 S.D. 277, 52 N.W.2d 101 (1952).