

Statement of the Issues

1. The circuit court held that Dr. Sorrell's written contracts precluded his equitable claim for restitution, even though those contracts did not address the issues raised in the equitable claim. A written contract, however, bars only equitable claims concerning matters addressed in the written contract. Did the circuit court err in dismissing the equitable claim?

Johnson v. Larson, 2010 S.D. 20, 779 N.W.2d 412

W.J. Bachman Mechanical Sheetmetal Co. v. Wal-Mart Real Estate Business Trust, 2009 S.D. 25, 764 N.W.2d 722

2. The evidence at trial showed that Dr. Sorrell stated that he did not intend to return to Surgical Institute as a full-time employee less than nine months before the end of his fellowship, Surgical Institute accepted that resignation three days later, and a week later Dr. Sorrell attempted to retract his resignation, yet the jury found that Dr. Sorrell did not breach the notice requirement. Did the circuit court err by denying Surgical Institute's motion for new trial based on insufficient evidence to support the verdict?

Union Pac. R.R. v. Certain Underwriters at Lloyd's London, 2009 S.D. 70, 771 N.W.2d 611

Northwest Realty Co. v. Perez, 137 N.W.2d 345, 348 (S.D. 1965)
RESTATEMENT (SECOND) OF CONTRACTS § 256(2)

3. Before leaving, Dr. Sorrell promised to return after his fellowship, and Surgical Institute relied on his promise. No rule of law required exclusion of this evidence, which was central to the dispute, but the circuit court excluded it to Surgical Institute's prejudice. Is a new trial required?

SDCL § 19-12-1

SDCL § 19-12-2

Supreme Pork, Inc. v. Master Blaster, Inc., 2009 S.D. 20, 764 N.W.2d 474

4. Surgical Institute attempted to introduce evidence that Dr. Sorrell's failure to provide nine-months notice caused Surgical Institute to incur locum tenens expenses for one year. Even though Surgical Institute did not seek recovery of its expectation damages, the court limited recovery of Surgical Institute's increased expenses to nine months based on the contract notice provision. Did the circuit court err by deciding as a matter of law that expenses beyond nine months were not proximately caused by Dr. Sorrell's failure to provide notice?

SDCL § 21-2-1

Regan v. Moyle Petroleum Co., 344 N.W.2d 695 (S.D. 1984)

Bunkers v. Jacobson, 2002 S.D. 135, 653 N.W.2d 732

