

STATEMENT OF LEGAL ISSUES

1. Did the trial court err when it restricted the Plaintiff's expert witness testimony and did not allow the Plaintiff's expert witness to testify that it is a breach of the standard of care for a surgeon to fail to inform his patient of complications of the surgery and of problems that the surgery may have caused?

The circuit court redacted certain portions of the Plaintiff's expert witness' testimony, including statements made by the expert witness in regard to the breach of standard of care committed by the Defendant, Dr. Krouse.

Most relevant statute: SDCL 15-6-32(d)(3)(B)

Most relevant case: Van Zee v. Sioux Valley Hospital, 315 N.W.2d 489 (S.D. 1982); Magbuhat v. Kovarik, 382 N.W.2d 43 (S.D. 1986)

2. Did the trial court err in refusing the Plaintiff's request for a *res ipsa loquitur* instruction to be given to the jury in a medical malpractice action where the surgeon had complete control of the operation, where the medical procedure failed and had to be completely removed by another surgeon, and where the patient incurred damages from the initial surgery?

The trial court held that the *res ipsa loquitur* instruction would not be given to the jury.

Most relevant statute: None applicable

Most relevant case: Van Zee v. Sioux Valley Hospital, 315 N.W.2d 489 (S.D. 1982)