

WEDNESDAY, OCTOBER 5, 2011
9:00 A.M.

NO. 1

#25808

ESTATE OF ETHANUEL JAMES
HOLZNAGEL, Deceased, WAYNE D.
HOLZNAGEL and PAULA M. HOLZNAGEL,
Personal Representatives,

and

WAYNE D. HOLZNAGEL and PAULA M.
HOLZNAGEL, and KATHLEEN F.
HOLZNAGEL, Individually,
Plaintiffs and Appellants,

vs.

JOHN ERVIN CUTSINGER,

and

DEPENDABLE SANITATION, INC.,
Defendants and Appellees.

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(FOR APPELLANTS)

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(FOR APPELLEES)

The Honorable Sean M. O'Brien
First Judicial Circuit
Davison County

(CIV 07-645)

STATEMENT OF THE LEGAL ISSUE

Holznagels state that the following legal issue is presented, to-wit:

ISSUE I

Whether the Trial Court erred by granting a motion in limine which barred Holznagels from presenting evidence concerning Cutsinger's use of marijuana on April 11, 2006, the date of a collision involving an automobile operated by Ethaniel and a truck operated by Cutsinger. The Trial Court held in the negative.

Relevant Authority:

1. *Novak v. McEldowney* 655 N.W.2d 909 (S.D.,2002)
2. *Shamburger v. Behrens*, 380 NW2d 659 (S.D.,1986)
3. *State v. Clark* 260 Conn. 813, 801 A.2d 718 (Conn.,2002)
4. *State v. Russell*, 125 Wash.2d 24, 882 P.2d 747, (Wash.,1994)
5. *SDCL 19-12-1*
6. *SDCL 19-12-3*
7. *SDCL 19-14-8*