

LEGAL ISSUES

I. THE TRIAL COURT ERRED IN A DENYING DANIELS A NEW TRIAL AND/OR JUDGMENT N.O.V. BASED UPON THE IRREGULARITY IN THE PROCEEDINGS AND THE INADEQUATE DAMAGES APPEARING TO HAVE BEEN GIVEN UNDER THE INFLUENCE OF PASSION OR PREJUDICE.

The Trial Court denied Daniels' Motion for New Trial and Judgment Not Withstanding the Verdict.

II. AN ABUSE OF DISCRETION AND CLEAR ERROR OF LAW OCCURRED AT TRIAL IN ALLOWING DEFENSE COUNSEL TO QUESTION RICH DANIELS AND PLAINTIFF'S EXPERTS, ABOUT PLAINTIFF'S COLLATERAL SOURCE AND INSURANCE, IN CLEAR VIOLATION OF THE COURT'S ORDER.

The Trial Court overruled Plaintiff's Motion in Limine on collateral source by allowing Defendant to interject the word "insurance" in to the trial, in violation of SDCL § 15-17-37.

III. AN ABUSE OF DISCRETION AND CLEAR ERROR OF LAW OCCURRED BEFORE AND AT TRIAL WITH REGARD TO THE COURT'S GRANTING OF DEFENDANT'S MOTION IN LIMINE NO. 4, REGARDING THE SHOWING OF TEARFUL EMOTION OF PLAINTIFF'S COUNSEL DURING THIS CIVIL TRIAL, AS AN UNFAIR CHILLING EFFECT AND PROHIBITION PLACED ON PLAINTIFF'S COUNSEL ON USING ANY EMOTION IN THE TRIAL.

The Trial Court granted Defendant's Motion in Limine No. 4, chilling the trial strategy and preparation on emotion by Plaintiff's counsel with no reciprocal prohibition of Defense counsel.

IV. AN ABUSE OF DISCRETION AND CLEAR ERROR OF LAW OCCURRED BEFORE AND AT TRIAL WITH REGARD TO THE TRIAL COURT'S DENIAL OF PLAINTIFF'S MOTION IN LIMINE NO. 6, ON THE USE OF "SURVEILLANCE TAPES".

The Trial Court denied Daniels' Motion in Limine No. 6 to prohibit the Defendant from showing irrelevant and prejudicial "surveillance video tapes" of Daniels' conduct.

V. THE TRIAL COURT COMMITTED AN ABUSE OF DISCRETION AND CLEAR ERROR OF LAW IN DENYING PLAINTIFF'S MOTION FOR AWARD OF COSTS AND EXPENSES PURSUANT TO RULE 36 AND RULE 37(C) (REQUEST FOR ADMISSIONS SDCL § 15-6-36 AND SDCL § 15-6-37(C)).

The Trial Court denied the Plaintiff's Motion.

VI. THE TRIAL COURT COMMITTED AN ABUSE OF DISCRETION AND CLEAR ERROR IN DENYING PLAINTIFF'S MOTION AND APPLICATION FOR TAXATION OF COSTS AS "PREVAILING PARTY".

The Trial Court denied the Plaintiff's motion and application.

VII. THE TRIAL COURT COMMITTED AN ABUSE OF DISCRETION AND ERROR IN DENYING PLAINTIFF'S APPLICATION FOR PREJUDGMENT INTEREST.

The Trial Court denied Daniels' application.