

STATEMENT OF THE ISSUE

I. WHETHER THE PLAINTIFFS WERE DENIED A FAIR TRIAL BY THE ADMISSION AND USE OF PREVIOUSLY UNDISCLOSED EXHIBITS BY THE DEFENDANTS' EXPERT PATHOLOGIST ON THE CENTRAL MYSTERY IN A MEDICAL MALPRACTICE CASE.

The trial court admitted one exhibit into evidence and allowed the use of two others for illustrative purposes and ruled that the Defendants' expert pathologist could testify about them to the jury. The Plaintiffs' new trial motion on this ground was denied by operation of statute. Following the filing of the Plaintiffs' notice of appeal, the trial court issued a post-appeal memorandum decision and order denying the motion for a new trial.

- *Schoon v. Looby*, 2003 SD 123, 670 N.W.2d 885
- *Schrader v. Tjarks*, 522 N.W.2d 205 (S.D. 1994)
- *Voegeli v. Lewis*, 568 F.2d 89 (8th Cir. 1977)
- *Licciardi v. TIG Ins. Group*, 140 F.3d 357 (1st Cir. 1998)
- SDCL § 15-6-26(e)(1) & (3)