

MONDAY, MARCH 22, 2010
9:00 A.M.

NO. 1

#25263

ELESHIA ZAHRBOCK, PEYTON
GERRY and JUSTIN ZAHRBOCK,
Plaintiffs,

JONETTE ANSON,
Appellant,

vs.

STAR BRITE INN MOTEL,
Defendant and Appellee.

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(FOR APPELLANT JONETTE ANSON)

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(FOR APPELLEE STAR BRITE INN)

The Honorable Arthur L. Rusch
First Judicial Circuit
Yankton County

(CIV 07-742)

STATEMENTS OF LEGAL ISSUE AND HOLDING

Whether the trial court erred in not applying the doctrine of "equitable tolling" to allow Plaintiff Anson to sue out her claim after the statute of limitations had expired where her former attorney had misrepresented to her that her lawsuit had been filed and repeatedly lied to her about the progression of her case?

The trial court granted the Defendant's Motion to Dismiss, finding that although her attorney had engaged in extraordinary misconduct, the doctrine of equitable tolling would not apply because she had failed to exercise due diligence to ensure her attorney was representing her properly.