

STATEMENT OF LEGAL ISSUES

Appellant's Issues on Appeal Relating to SD DSS Defendants:

1. WHETHER THE DISCOVERY RULE APPLIES TO S.D.C.L. §3-21-2.

The trial court found that it did not.

2. WHETHER THE TOLLING DOCTRINE OF FRAUDULENT CONCEALMENT APPLIES TO S.D.C.L. §3-21-2.

The trial court found that tolling doctrines do not apply to S.D.C.L. §3-21-2.

3. WHETHER THERE ARE FACTS IN THE CASE AT HAND SO AS TO PRECLUDE AS A MATTER OF LAW, A REASONABLE FINDER OF FACT FROM FINDING THAT THE S.D.C.L. §3-21-2 180-DAY NOTICE REQUIREMENT WAS TOLLED BY DEFENDANTS' FRAUDULENT CONCEALMENT.

The trial court found that under no facts presented could a reasonable person find that the time period to file a notice of claim was tolled by Defendants' fraudulent concealment.

WHETHER THERE ARE FACTS ON THE BASIS OF WHICH A REASONABLE FINDER OF FACT COULD FIND THAT PLAINTIFF HAS ESTABLISHED DEFENDANTS' VIOLATION OF HER CONSTITUTIONALLY PROTECTED CIVIL RIGHTS.

The trial court found that under no facts presented could a reasonable person find that the Plaintiff had established a violation of her civil rights.

Appellees SD DSS' Issues on Their Notice of Review:

1. WHETHER, IN THE ALTERNATIVE TO AFFIRMING THE TRIAL COURT'S GRANTING SUMMARY JUDGMENT TO DEFENDANTS FLEMING AND CUMMINGS ON S.D.C.L. §3-21-2 GROUNDS, THERE ARE NO MATERIAL FACTS IN DISPUTE ON THE ISSUE OF GOOD FAITH IMMUNITY (S.D.C.L. §26-8A-14) AND, AS SUCH, DEFENDANTS FLEMING AND CUMMINGS ARE ENTITLED TO SUMMARY JUDGMENT ON ALL STATE CLAIMS AS A MATTER OF LAW BASED ON THEIR GOOD FAITH IMMUNITY DEFENSE.

2. WHETHER, IN THE ALTERNATIVE TO AFFIRMING THE TRIAL COURT'S GRANTING SUMMARY JUDGMENT ON S.D.C.L. §3-21-2 GROUNDS TO DEFENDANT CUMMINGS FOR HER NEGLIGENT SUPERVISION AND HIRING, THERE ARE NO MATERIAL FACTS IN DISPUTE ON THE ISSUE OF SOVEREIGN IMMUNITY AND, AS SUCH, DEFENDANT CUMMINGS IS ENTITLED TO SUMMARY JUDGMENT ON THE NEGLIGENT SUPERVISION AND HIRING CLAIM AS A MATTER OF LAW BASED ON HER SOVEREIGN IMMUNITY DEFENSE.
3. WHETHER IN THE ALTERNATIVE TO AFFIRMING THE TRIAL COURT'S GRANTING SUMMARY JUDGMENT TO DEFENDANTS FLEMING AND CUMMINGS ON S.D.C.L. §2-21-2 GROUNDS, THERE ARE NO MATERIAL FACTS IN DISPUTE REGARDING FRAUDULENT CONCEALMENT, AS SUCH, DEFENDANTS FLEMING AND CUMMINGS ARE ENTITLED TO SUMMARY JUDGMENT ON ALL CLAIMS AS A MATTER OF LAW BASED ON THEIR STATUTE OF LIMITATIONS DEFENSE.

Appellant's Issues on Appeal Relating to Dr. Frank Buzzetta:

1. WHETHER THERE ARE MATERIAL FACTS IN DISPUTE AS TO DEFENDANT DR. FRANK BUZZETTA'S FRAUDULENT CONCEALMENT SO AS TO TOLL THE STATUTE OF LIMITATIONS.

The trial court found that no material facts existed.

2. WHETHER DEFENDANT DR. FRANK BUZZETTA WAS ENTITLED TO JUDGMENT AS A MATTER OF LAW UNDER S.D.C.L. §26-8A-14'S GOOD FAITH IMMUNITY PROVISION.

The trial court found that Defendant Dr. Frank Buzzetta was afforded good faith immunity as a matter of law.