

SUMMARY STATEMENT

Blizzard v. Lundeby, No. 39774

In a case arising from Kootenai County, the Idaho Supreme Court vacated the district court's denial of the Plaintiffs' motion for a new trial and remanded the case for further proceedings. Plaintiffs, Janice Blizzard, Colton Blizzard, and Tina Sarro, appeal a district court's order denying their Rule 59(a)(6) Motion for a New Trial in a medical malpractice action against defendant, Dr. Lundeby. Rick Blizzard went to Kootenai Medical Center for lower abdominal pain. Dr. Lundeby performed an exploratory surgery after an endoscopy revealed that Blizzard had a severely obstructed and distended bowel. Dr. Lundeby performed a colostomy reversal, after which he discovered that Blizzard's bladder had been stapled creating a fistula that was depositing fecal material into Blizzard's bladder. Blizzard underwent eight surgical attempts to repair his bladder and bowel. Following a jury trial, the jury returned a verdict for Dr. Lundeby finding that Dr. Lundeby was not negligent in his stapling of Blizzard's bladder. The district court denied Plaintiffs' Motion for a New Trial because even though it found that the jury's verdict was against the clear weight of evidence, it could not say that a new trial would produce a different result. The Idaho Supreme Court held that when considering a motion for a new trial pursuant to I.R.C.P. 59(a)(6), in deciding the second prong of the legal standard, i.e. whether a different result would be obtained at a new trial, the judge must consider whether it is more probable than not that a different result would be obtained only as to the question(s) answered by the jury.