

SUMMARY STATEMENT

Summerfield v. St. Luke's

Docket No. 47946

Michael Summerfield brought a medical malpractice suit against St. Luke's McCall, Ltd. (St. Luke's). During a procedure to remove his gallbladder, the attending surgeon, an employee of St. Luke's, unknowingly spilled and left a gallstone in Summerfield's peritoneal cavity. When the pathology report showed that the gallstone was not in the removed gallbladder, the surgeon failed to inform Summerfield of the incident, warn him of any potential complications, or properly document the incident in his medical chart.

St. Luke's filed a motion for summary judgment, arguing that Summerfield's expert witness was unable to demonstrate knowledge of the applicable standards of care. Initially, the district court agreed with St. Luke's and granted the motion. Summerfield then filed a motion for reconsideration and attached a supplemental declaration from his expert witness that established the requisite foundation. The district court considered the evidence and granted the motion for reconsideration. The district court later reversed itself, *sua sponte*, relying on *Ciccarello v. Davies*, 166 Idaho 153, 456 P.3d 519 (2019), and reasoning that it did not have to consider the supplemental declaration with the motion for reconsideration because it was untimely for consideration at summary judgment. Summerfield appealed to the Idaho Supreme Court and challenged the district court's decision on summary judgment and *sua sponte* reversal.

On appeal, the Idaho Supreme Court affirmed the district court's judgment on summary judgment in part, and reversed in part. The Court affirmed the district court's determination that Summerfield's expert witness did not establish the foundation to testify to the applicable standard of care and breach thereof as it related to whether the surgeon should have noticed the spilled gallstone and retrieved it during surgery. As to the district court's *sua sponte* reversal, the Court reaffirmed its holding in *Ciccarello*, and found no abuse of discretion by the district court. However, the Court reversed the district court on summary judgment, in part, finding Summerfield's expert witness established the requisite foundation to testify whether the surgeon should have informed Summerfield of the spilled gallstone and whether the surgeon should have made a notation in Summerfield's medical chart. The matter was remanded to the district for further proceeding on the two remaining causes of action.

This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.