

## SUMMARY STATEMENT

*Rebecca Mann v. North Canyon Medical Center, INC., dba North Canyon Medical Center, and Reid Wayne Lofgran, DO, as the Supervising Physician for Jason Davis, PA; and Jason Davis, PA, as an employee or agent of NCMC*

Docket No. 51695

Rebecca Mann appealed from the judgment entered upon a jury verdict in favor of North Canyon Medical Center (NCMC) finding physician assistant, Jason Davis, did not breach the standard of care in treating Mann's husband, Harve Mann. On appeal, Mann claimed that the district court erred in denying her motion for new trial due to an erroneous jury instruction and jury misconduct. Mann also claimed that the district court erred in excluding a proposed exhibit relating to adult hypertension and allowing the testimony of NCMC's expert when the disclosures of their expert opinions were deficient and their testimony cumulative.

The Court of Appeals affirmed the judgment of the district court. The Court held that the district court did not error in giving an instruction which read: "The mere fact that an unfortunate result occurs following medical care rendered by a physician does not, by itself, establish a breach of the standard of care by the physician." Mann claimed the instruction was, in reality, a prohibited "but for" causation instruction in the guise of a standard of care instruction. The Court disagreed and held that the instruction is, by its terms, a proper standard of care instruction and that, in any event, the jury never reached the issue of causation. The Court also held that, under the circumstances, a juror's failure to disclose that he knew Mann would not have resulted in a successful challenge for cause, and the same juror's statement during deliberations that Mann was driving a new truck so she did not need the money was not prejudicial and did not amount to juror misconduct. In addition, the Court held that a juror's comment that the Mann's were at fault for not returning to the emergency room was not extraneous information and was not prejudicial as the jury did not reach the issue of causation.

At trial, Mann sought to introduce an exhibit regarding adult hypertension that had been produced from NCMC's electronic health record system. The Court held that the document was not a statement of a party-opponent because the document was not authored by NCMC, but was a paper given for informational purposes to patients. Exclusion of the document was not prejudicial as the information in the document related, if at all, to the issue of causation which the jury never reached. Finally, the Court held that NCMC's expert disclosures were sufficient because, contrary to Mann's claim, the reason the experts did not disclose learned treatises was because they did not

rely on specific treatises in forming their opinions in the case and the expert's testimony was not shown to be cumulative.

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