

BOISE, IDAHO, JANUARY 13, 2025, AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**JON HILL and SHAWNA HILL, Husband)
and Wife,)**

Plaintiffs-Appellants,)

v.)

**EMERGENCY MEDICINE OF IDAHO,)
P.A.; STUART EDWARDS CLIVE, M.D.,)**

Defendants-Respondents,)

and)

BUSINESS ENTITIES I through X,)

Defendants.)

Docket No. 50686-2023

Appeal from the District Court of the Fourth Judicial District of the State of Idaho,
Ada County. Steven Hippler, District Judge.

Pedersen Whitehead & Hanby, Twin Falls, for Appellants.

Tolman Brizee & Cannon, P.C., Twin Falls, for Respondents.

This case concerns a medical malpractice claim brought by Jon and Shawna Hill and their children. The Hills allege that Dr. Stuart Clive and his employer, Emergency Medicine of Idaho (“EMI”), breached the standard of care by misdiagnosing Jon Hill with vertigo when he was suffering a stroke. Dr. Clive and EMI moved to dismiss the Hill children’s claims, arguing that Idaho does not recognize a claim for loss of parental consortium brought by a child for a non-fatal injury to the child’s parent. The district court agreed and dismissed the children’s claims from the lawsuit.

Following a ten-day trial on the remaining claims, the jury rendered a verdict in favor of the Defendants after finding there was no breach of the standard of care. After trial, the Hills discovered that one of the jurors who sat on the case failed to disclose that she was close friends with the law partner of the Hills’ trial attorney. The Hills filed a motion for a new trial premised on this alleged juror misconduct. The district court denied the motion after concluding that the Hills failed to establish juror misconduct.

On appeal, the Hills argue that the district court erred by concluding that no juror misconduct occurred. The Hills also challenge two of the district court’s evidentiary rulings during

trial: overruling their objection to expert testimony on the topic of “hindsight bias” and excluding testimony that, when Mr. Hill was in the emergency room, a different physician suggested that Mr. Hill be evaluated for a possible stroke. Finally, the Hills argue that the district court erred by dismissing the Hill children’s claims for loss of consortium.