# CAPTION: NICHOLS V. DURRANI

**09-08-23**

APPEAL NO.: C-220350

TRIAL NO.: A-1601569

KEY WORDS: MEDICAL MALPRACTICE – CIV.R. 50 – CIV.R. 59 – EVID.R. 403 – EVID.R. 404 – EVID.R. 608 – EVIDENCE – RELEVANCY – ABUSE OF DISCRETION – CREDIBILITY – HARMLESS ERROR

SUMMARY:

Where evidence concerning defendant doctor’s medical license revocations and privileges suspensions was not connected to the surgery performed on plaintiff, did not further plaintiffs’ theory of the case, and was introduced without context, the prejudice resulting from the admission of such evidence outweighed its scant probative value.

Where evidence concerning other lawsuits filed against defendant doctor, including a dismissed misdemeanor assault charge, medical-malpractice lawsuits, and a lawsuit seeking unpaid legal fees, was introduced without context and was not connected to the surgery performed on plaintiff, the evidence was inadmissible and its limited probative value was far outweighed by its prejudicial impact.

Where plaintiffs’ counsel made comments limited to the fact of defendant doctor’s absence and its impact on the legal proceedings, there was no error.

Where defendants failed to object to comments made during plaintiffs’ closing arguments and the comments did not challenge the legitimacy of the underlying judicial process itself, there was no reversible error, despite the egregiousness of the comments.

The trial court abused its discretion in failing to grant defendants’ motion for a new trial where the trial court’s admission of evidence concerning defendant doctor’s medical license revocations and privileges suspensions and other lawsuits filed against defendant doctor was not harmless.

JUDGMENT: REVERSED AND CAUSE REMANDED

JUDGES: OPINION by KINSLEY, J.; CROUSE, P.J., and BERGERON, J., CONCUR.