# CAPTION: Niehaus v. Durrani

**12-29-23**

APPEAL NOS.: C-220019

C-220035

TRIAL NO.: A-1600235

KEY WORDS: Medical Negligence – Informed Consent – Jury Instruction – Superseding Causation – Expert Testimony

SUMMARY:

The trial court did not err when it denied defendants’ motions for judgment notwithstanding the verdict and for a directed verdict as to medical negligence when defendant doctor did not perform the challenged surgical procedure but did have a physician-patient relationship with plaintiff.

The trial court erred when it denied defendants’ motion for a directed verdict as to lack of informed consent when defendant doctor failed to obtain informed consent but the doctor who actually performed the challenged surgical procedure made a subsequent attempt to obtain informed consent.

The trial court did not err when it refused to give defendants’ requested jury instruction on superseding causation where that instruction was not a complete and accurate statement of the law because it omitted the requirement that the superseding cause be both unforeseeable and independent of the alleged negligence.

The trial court erred in admitting an unfairly prejudicial video collage of deposition testimony given by defendant doctor, and that error entitles defendants to a new trial.

The trial court erred in admitting expert testimony of a radiologist pertaining to handwriting analysis when the witness had not laid any foundation to establish expertise in handwriting analysis.

JUDGMENT: Reversed and Cause Remanded in C-220019;  
Appeal Dismissed in C-220035

JUDGES: Opinion by Crouse, P.J.; Bergeron and Kinsley, JJ., concur.