# CAPTION: DENSLER V. DURRANI

**01-05-24**

APPEAL NO.: C-230016

TRIAL NO.: A-1706561

KEY WORDS: STANDING — CIV.R. 17 — REAL PARTY IN INTEREST — CIV.R. 59 — NEW TRIAL — IMPROPER HABIT EVIDENCE — REVERSIBLE ERROR

SUMMARY:

The trial court did not err in allowing plaintiff to purse a claim for past medical expenses at trial where the record does not establish that the insurer was the sole real party in interest under Civ.R. 17 as to the claim for past medical expenses and no argument was presented that the trial court erred in its joinder determination regarding the insurer under Civ.R. 19.

The trial court abused its discretion in failing to grant defendants’ motion for a new trial where the record established that the jury relied upon improperly admitted habit evidence when reaching its conclusion. [*See* Concurrence: The trial court abused its discretion by denying defense counsel an opportunity to cross-examine plaintiff about a prior inconsistent statement.]

JUDGMENT: REVERSED AND CAUSE REMANDED

JUDGES: OPINION by ZAYAS, P.J.; BOCK, J., CONCURS and BERGERON, J., CONCURS SEPARATELY.