# CAPTION: JONES V. DURRANI

**05-10-24**

APPEAL NOS.: C-220426

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KEY WORDS: MEDICAL MALPRACTICE — Civ.R. 42 — JOINT TRIAL — JURY INSTRUCTION — PREJUDICE — R.C. 1343.03 — PREJUDGMENT INTEREST — EVIDENCE

SUMMARY:

The trial court did not abuse its discretion in joining two medical-malpractice actions for trial where there were issues of law and fact common to both cases that predominated in each case, the trial court instructed the jury that each case should be considered on its own merit, and the jury’s verdicts indicate that the jury was able to successfully parse through the evidence and reach independent conclusions as to both the common and unique questions of law and fact.

The trial court erred in issuing an absent-defendant jury instruction where the instruction required, rather than permitted, a negative inference to arise from the defendant’s absence and did not limit the inference to only that evidence which the absent defendant would naturally produce, but such error did not amount to reversible error where there is no indication on the face of the record that the erroneous instruction was so prejudicial as to require reversal.

The trial court abused its discretion in awarding the plaintiffs prejudgment interest where there is no evidence in the record to support the trial court's factual findings under R.C. 1343.03(C).

JUDGMENT: AFFIRMED IN PART AND REVERSED IN PART

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