

Yagodinski v. Sutton

Case Number

S-18-0736

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May 20, 2019

Court Number

Sarpy

Case Location

Lincoln

Case Summary

S-18-0736 Gina Yagodinski (Appellant) v. Brad Sutton (Appellee)

Sarpy County District Court, Judge George A. Thompson

Attorneys: James E. Harris, Britany S. Shotkoski (Harris & Associates, P.C., L.L.O., for Appellant) ? Thomas A. Grennan, Adam J. Wachal (Gross & Welch, P.C., L.L.O., for Appellee)

Civil: Tort / Personal Injury (Negligence)

Proceedings Below: A jury trial was conducted June 26-28, 2018, regarding a claim of negligence, made by Appellant. The issues actually tried were duty; breach of duty; causation; and damages. Appellee filed three (3) pretrial ?Daubert? Motions in Limine challenging the anticipated testimony of Appellant?s treating chiropractic neurologist, John McClaren.

Appellee challenged the qualifications of McClaren, regarding his ability to testify as an expert, with regard to concussions and minor traumatic brain injury (mTBI). At trial, Appellant made an offer of proof, on the record but outside the presence of the jury, preserving the record related to the foundation for and proffered testimony of McClaren if he were allowed to testify as to Appellant?s post-concussive vestibular syndrome and minor traumatic brain injury.

Issues: Whether the trial court erred as a matter of law in 1) violating its gatekeeping function by improperly determining the weight and credibility of a chiropractic neurologist?s expert testimony; 2) granting Appellee?s Motion in Limine and restricting the expert testimony of Appellant?s expert, John McClaren; 3) finding the field of chiropractic neurology unreliable and inadmissible; 4) excluding chiropractic neurology testimony because the court did not deem the proposed expert to be the best qualified or in a specialization which was appropriate.
