



Ankin Law Office LLC

Protecting the Rights of Injured Workers

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Illinois Supreme Court Considers Pattern Jury Instruction for Professional Negligence

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The Illinois Supreme Court addressed an interesting issue earlier this month: whether the Illinois Pattern Jury Instructions on the standard of care for professional negligence correctly stated the law in Illinois. This issue was considered in *Studt v. Sherman Health Systems*, 2011 WL 2409897.

In *Studt*, the plaintiff filed a [medical malpractice lawsuit](#) against the defendant based on claims of institutional negligence and vicarious liability due to the hospital physicians' failure to diagnose the plaintiff's appendicitis. The defendant appealed following a jury trial which resulted in a favorable verdict for the plaintiff.

One issue raised on appeal by the defendant was that the applicable section of Illinois pattern jury instructions, IPI Civil (2006) No. 105.01, incorrectly stated that the jury may consider evidentiary sources other than expert testimony when determining whether the physicians were negligent in their duties.

After analyzing applicable case law, the Court concluded that IPI Civil (2006) No. 105.01 was a misstatement of the law and that the trial court's instruction in this regard was improper:

The Hospital submits that IPI Civil (2006) No. 105.01 is a misstatement of law because it erroneously instructs that the jury may consider a broad array of other evidentiary sources including bylaws, rules, regulations, policies, procedures, community practice and other evidence. The Hospital argues that these other evidentiary sources can be properly considered only in institutional negligence claims against a hospital, not claims based on vicarious liability for professional negligence...(W)hile expert testimony is permitted in institutional negligence cases, it is required in professional negligence cases. Accordingly, we determine that the 2006 IPI effects a significant and unwarranted departure from the established law governing professional negligence cases...For the foregoing reasons, we hold that the version of IPI Civil (2006) No. 105.01 given at trial constituted error because it did not limit the jury's consideration to expert testimony.

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However, fortunately for the injured plaintiff in this case, the Court concluded that even though the trial court improperly instructed the jury, the error did not seriously prejudice the defendant and was thus harmless. Therefore, the jury verdict rendered in favor of the plaintiff remained undisturbed.

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