

Fact Pattern 1

Expert Disclosure

Background:

In March 2024, Sarah Thompson underwent a surgical procedure at City Hospital, performed by Dr. John Smith. Post-operatively, Sarah experienced severe complications, leading to prolonged hospitalization and additional surgeries. Believing these complications resulted from Dr. Smith's negligence, Sarah filed a medical malpractice lawsuit against Dr. Smith and City Hospital in June 2025.

Trial Proceeding:

During discovery, Sarah's attorney requested expert witness disclosures from the defendants pursuant to CPLR 3101(d)(1)(i). The defendants provided a disclosure stating that their expert, Dr. Emily Davis, would testify regarding the standard of care and causation, asserting that Dr. Smith's treatment met the accepted medical standards and did not cause Sarah's injuries.

Pre-Trial Developments-

The court set a trial date for September 2026. In August 2026, the defendants served a supplemental expert disclosure, indicating that Dr. Davis would also testify about an alternative cause of Sarah's complications—a pre-existing, undiagnosed condition. Sarah's counsel objected to this late disclosure, arguing that introducing a new theory so close to trial was prejudicial and violated CPLR 3101(d)'s requirement for timely and detailed expert disclosures.

Trial Court Ruling-

The trial court overruled the objection, allowing Dr. Davis to testify on the alternative causation theory. The court reasoned that CPLR 3101(d)(1)(i) does not specify a strict deadline for expert disclosures and that the defendants had supplemented their disclosure upon identifying the new theory.

Appeal:

On appeal, Sarah contends that the trial court abused its discretion by permitting the late-disclosed expert testimony, which introduced a new causation theory without providing sufficient time for her to prepare an effective rebuttal. She argues that this decision resulted in undue prejudice and compromised the fairness of the trial.

Questions

1. Does CPLR 3101(d)(1)(i) specify a strict deadline for serving expert witness disclosures, and what constitutes "timely" disclosure under this rule?
2. Is it permissible under CPLR 3101(d) to serve a supplemental expert disclosure introducing a new theory of causation shortly before trial?
3. What steps should an attorney take if they receive a late expert disclosure that introduces new opinions or theories?
4. How do appellate courts in New York review trial court decisions regarding the timeliness and adequacy of expert disclosures?
5. Why is it important to make specific and timely objections to expert disclosures at the trial level?

Fact Pattern 2

Notice of Entry

Background:

Dr. Jane Smith, a well-respected surgeon, performed a complex spinal surgery on the plaintiff, Mr. John Doe. Following the procedure, Mr. Doe developed severe complications, including paralysis. He subsequently filed a medical malpractice lawsuit against Dr. Smith and the hospital, ABC Medical Center, alleging that the defendants deviated from the standard of care by failing to properly monitor post-operative symptoms.

Trial Proceeding:

During litigation, the trial court granted summary judgment in favor of Dr. Smith and ABC Medical Center, dismissing the case on the basis that Mr. Doe's expert affidavit was speculative and insufficient to establish malpractice.

ABC Medical Center's attorneys promptly served Mr. Doe's counsel a correspondence stating, "Attached please find the decision filed in the country clerk's office." The decision enclosed was neither stamped with the date and place of entry nor signed by the clerk.

ABC Medical calendared Mr. Doe's counsel 30-day appellate deadline.

Appeal:

Two years later, Mr. Doe's counsel file an appeal arguing that Mr. Doe's expert affidavit was not speculative and was sufficient to establish malpractice. ABC Medical Center moved to dismiss the appeal as untimely, arguing that the appellate court lacked jurisdiction because the appeal was not taken within the statutory period. Mr. Doe's counsel argues a Notice of Entry was not served

Questions

1. Will the appellate court review the issue?
2. What are the essential elements that a Notice of Entry must contain to properly trigger the appellate deadline under CPLR 5016(a)?
3. How does the court determine whether a Notice of Entry substantially complies with CPLR 5016(a)?
4. What steps should an attorney take upon receiving a Notice of Entry to ensure it complies with legal requirements?

Fact Pattern 3

Interlocutory Orders

The plaintiff was a construction worker who fell from a ladder that allegedly shifted and wobbled. He successfully moved for summary judgment on his claim that the defendants violated New York's scaffold law. The defendants appealed, and in a 3-2 decision, the Appellate Division found that summary judgment was improperly granted and remanded the case for trial.

The matter proceeded to trial and the factual record developed did not match the record submitted at summary judgment. The jury issued a defendant's verdict and a judgment of dismissal was entered. The Appellate Division affirmed the judgment.

The Court of Appeals granted permission to appeal

Questions

1. How could plaintiff have obtained immediate review of the Appellate Division's summary judgment order?
2. Could the Court of Appeal review the Appellate Division's summary judgment order?
3. What does the entry of judgment do to pending interlocutory appeals in the Appellate Division?
4. What can parties do to protect their interlocutory appeals?

Fact Pattern 4

Preservation

Background:

ABC Corp., a construction company, enters into a contract with XYZ Developers to complete a commercial building project. The contract specifies that any modifications to the scope of work must be in writing and signed by both parties.

During construction, XYZ Developers requests several changes to the original design, including additional structural reinforcements and upgraded materials. ABC Corp. verbally agrees to the changes, and the work proceeds. Upon project completion, ABC Corp. submits an invoice reflecting the additional costs, but XYZ Developers refuses to pay, citing that the modifications were never formally agreed upon in writing.

Trial Proceedings:

ABC Corp. files a breach of contract lawsuit seeking payment for the additional work. During trial, XYZ Developers argues that the lack of a written modification bars ABC Corp. from recovering extra costs. ABC Corp. contends that XYZ Developers waived the written modification requirement through its conduct and oral assurances.

During testimony, ABC Corp. attempts to introduce emails in which XYZ Developers' project manager acknowledged the modifications. XYZ Developers object to the introduction of the emails as inadmissible hearsay. During sidebar discussion, ABC Corp.'s attorney responds to XYZ Developers' object by arguing that the emails qualify under the business records exception to the hearsay rule and are admissible as party admissions. The attorney cites applicable contract law precedents supporting the argument that internal communications acknowledging contract modifications can be used as evidence.

The judge ultimately sustains XYZ Developers' objection, on the record, excluding the emails from evidence. ABC Corp.'s attorney states "we object" on the record. The trial court rules in favor of XYZ Developers, finding that ABC Corp. failed to establish an enforceable modification.

Appeal:

ABC Corp. appeals, arguing that the trial court improperly excluded the emails despite a valid argument for admissibility, which would have demonstrated XYZ Developers' acknowledgment of the modifications.

Questions

1. Can the appellate court review the issue?
2. Is there anything ABC Corp. can do for the appellate court to review the issue?
3. Is there an exception to the preservation requirements?
4. Is there a distinction between preservation before the Appellate Division and the Court of Appeals

Fact Pattern 5

Motions In Limine

Nurse T provided home care to AF, a young child who had significant physical and cognitive disabilities. AF had been prescribed a skin cream to treat one of her conditions. On the day before Thanksgiving, Nurse T gave AF a bath and applied the prescribed cream to AF's legs. As Nurse T was drying AF, AF's skin began to slough off. When AF's parents arrived home, they took AF and Nurse T to AF's pediatrician. The pediatrician sent AF, her parents, and the Nurse to Westchester Medical Center.

AF was seen by providers at Westchester's burn unit. The original differential diagnosis was between two different types of allergic reactions. A biopsy was taken, but the results were not included in AF's chart. After a few days in the burn unit, Westchester's Chief of the Burn unit saw AF and diagnosed her with a thermal burn caused by Nurse T's use of scalding water during the bath.

The authorities were contacted, and Nurse T was interrogated by an investigator without the benefit of counsel. She confessed to using water that was too hot and wrote an apology note to AF's parents. Nurse T was arrested and charged with endangering the welfare of a vulnerable elderly person or an incompetent or physically disabled person. Her criminal attorney did not attempt to retain an expert, nor did he secure the results of the biopsy mentioned in the Westchester medical records. Nurse T pleaded guilty to the criminal charge and at her allocution, admitted that she recklessly caused the burns to AF. She spent one year in jail.

AF's parents sued Nurse T and her employer. However, they did not move for summary judgment. The trial attorney for Nurse T reviewed the file shortly before jury selection. He discovered that the biopsy results were not in the medical records. This prompted further requests, and the biopsy records were provided by the hospital. The biopsy results were consistent with an allergic reaction, not thermal burns.

Motion practice ensued, including a motion in limine by plaintiff's parents to direct the jury solely to address the issue of damages. Nurse T argued that the motion in limine was an untimely summary judgment motion. The trial court granted the plaintiff's motion in part. The jury would not be allowed to consider whether Nurse T departed from the standard of care but would be allowed to consider the issue of proximate cause. The court also precluded Nurse T and her employer from presenting any evidence-in-chief about the allergic reaction but allowed them to cross-examine the plaintiff's witnesses on the topic using the medical records in the evidence.

At the end of the trial, the jury found that there was no proximate cause between the bath and AF's injuries, and after post-trial motions, a judgment was entered for the defendants. The plaintiffs took an appeal.

Questions

1. Was the plaintiff's motion a motion in limine?
2. If the motion was not a motion in limine, what was it?
3. Should the court have granted the motion, even in part?
4. Could the defendant have appealed the "in limine" ruling when it was made?
5. After the entry of a judgment of dismissal, did the defendants have to file a Notice of Appeal to argue that the motion in limine was improperly granted?

Fact Pattern 6

Directed Verdict Motions

Decedent was a patient in a hospital's telemetry unit. The decedent's heart was monitored by a telemetry machine, which printed paper strips documenting the condition of the decedent's heart. Decedent passed away and the telemetry strips were lost. During discovery, the plaintiff moved to strike the defendant's answer as a spoliation sanction, but the motion was denied.

The case was assigned to a trial justice. At the first conference, the plaintiff made an oral application under CPLR 4401 to strike the defendant's answer for failing to produce the telemetry strips. The defendant was given a day to submit an opposition. The next day, the defendant's opposition papers were submitted, and the attorneys were sent out to pick a jury. While the jury was being selected, there was a knock at the door. It was the trial justice's law secretary. The law secretary handed the lawyers an order granting the plaintiff's application and the defendant's answer was struck. This resolved all liability issues, and the matter was to continue with jury selection followed by a damages trial.

The defendant's trial counsel calls you, appellate counsel, from the hallway outside the jury room. What can you do to help?

Questions

1. Was the order determining an oral application appealable as of right?
2. Could the defendants get a stay of trial pending appeal?
3. Was CPLR 4401 (directed verdict motion) a proper vehicle to obtain judgment as a matter of law during jury selection?
4. Did the trial judge have the authority to grant relief previously denied by the IAS judge?
5. Would defendants have been able to appeal at all if the judge made an oral ruling instead of signing a written order?

Fact Pattern 7

Emergency Applications

A pregnant mother was admitted to the hospital to deliver her baby by Cesarean section. The child was born healthy, but the mother suffered complications and needed a blood transfusion. However, the mother refused to consent to blood transfusion because to do so would violate her religious beliefs. The hospital presented an ex parte order to show cause to the Supreme Court requesting permission to perform the blood transfusions over the mother's objections. The court issued an ex parte order granting that relief. The mother was not given notice of the application, nor was she given the opportunity to oppose it before the ex parte order was issued. With the order in hand, and over the continuing objections of the mother and her husband, the hospital administered two blood transfusions.

The mother's family has called you to prevent future transfusions. Which court do you go to? What do you ask for?

Questions

1. Can you seek relief from the Supreme Court?
2. Can you bypass the Supreme Court and seek Appellate Division review?
3. Can the Appellate Division grant immediate relief, or must the appellate process come to conclusion?
4. Are all Orders to Show Cause ex parte orders?

Fact Pattern 8

Admissibility of Settlements

Plaintiff is a single mother who was struck by a vehicle owned and operated by defendant when she was walking home from her neighborhood book club event. The defendant was driving his vehicle 30 mph over the speed limit of this residential neighborhood. When defendant struck plaintiff, he had lost control of his vehicle after swerving to avoid a car pulling out of their driveway.

When the plaintiff was struck, she was taken to the hospital as she had suffered extensive injuries. The plaintiff required surgery and substantial recovery time in the hospital and months of physical therapy to regain mobility. Plaintiff is expected to regain most of her mobility with some exceptions. Plaintiff sued Defendant in Nassau County Supreme Court for the negligent operation of his vehicle. Plaintiff and Defendant entered into a hi-low agreement in open court. The terms of such agreement were that if the jury found defendant 75% or less at fault the plaintiff was entitled to \$75,000 at the low end. If the defendant was more than 75% at fault the most plaintiff would receive would be \$500,000 on the high end. The parties agreed that they would waive post-trial submissions but did not mention whether they would be waiving appeals of the verdict. The judge asked if the parties would agree to waive statutory interest as well and neither party objected.

The jury found that the defendant was 70% at fault and the plaintiff was 30% at fault. The jury found that the pre-apportionment damages were \$250,000. The plaintiff moved to set aside the verdict pursuant to CPLR 4404(a) stating that the verdict was contrary to the weight of the evidence and inconsistent. Plaintiff contended the jury verdict sheet allowed the jury to apportion fault and damages without a finding that the defendant departed from the standard of care.

Defendant moved to enforce the hi-low agreement stating the jury's sheets alleged inconsistency was not material to the outcome and did not meet the standards for an appeal under CPLR 4404(a).

Questions

1. Were defense counsel's questions regarding settlement a proper line of questioning pursuant to CPLR 4547?
2. Does the attending physician qualify as an adverse witness?
3. Should the judge have granted plaintiff's motion for a mistrial?
4. Would the plaintiff be successful on an appeal of the verdict pursuant to CPLR 4404?
5. How can you tell when a question is likely to be considered as going to the credibility of the witness rather than the admissibility of the defendant.

Fact Pattern 9

Hi-Low Agreements

Plaintiff is a single mother who was struck by a vehicle owned and operated by defendant when she was walking home from her neighborhood book club event. The defendant was driving his vehicle 30 mph over the speed limit of this residential neighborhood. When the defendant struck plaintiff, he had lost control of his vehicle after swerving to avoid a car pulling out of their driveway.

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Questions

1. What should the outcome of this appeal be?
2. Should the judge enforce the hi-low agreement or remand the case for a new trial?
3. Can hi-low agreements be enforced with a confusing or inconsistent verdict sheet?
4. Should the plaintiff be allowed to appeal the verdict after agreeing to waive post-trial submissions even though there was no mention in the agreement about appeals?
5. When will hi-low agreements not be upheld by the court?

Fact Pattern 10

Jury Instructions

Plaintiff entered into a license agreement with Defendant, a well-known celebrity, in connection with the development and promotion of a fragrance line. After lackluster sales, Plaintiff commenced this action against Defendant for breach of the license agreement and breach of the implied covenant of good faith and fair dealing due to Defendant's alleged failure to promote the product. The Defendant counterclaimed for breach of the licensing agreement for unpaid royalties. After trial, the Court awarded Defendant \$5M in damages on his counterclaim. Plaintiff's appealed, alleging that the Court improperly charged the jury by treating Plaintiff's obligations under the parties' license agreement as 'conditions precedent' on which Plaintiff had the burden of proof, rather than an affirmative defense which would have required Defendant to prove material breach in the license agreement

Plaintiff did not object to the jury instruction prior to the jury retiring to consider the verdict.

Questions

1. What is the outcome of the appeal?
2. What if the party appealing the jury instruction had previously objected to the characterization of 'condition precedent' as opposed to an affirmative defense in motion practice before trial?
3. Is there a situation where the Court could entertain an objection to a jury instruction which was not preserved?

Fact Pattern 11

Inconsistent Verdicts

Plaintiff purchased a brand-new refrigerator from Fridge'R'Us. Three weeks after the new refrigerator was installed, a fire broke out in Plaintiff's kitchen, causing extensive damage to Plaintiff's home which required three fire trucks to appear at the scene and extinguish the fire.

After the fire was put out, the Fire Department's investigator's prepared a report which found that the "kitchen refrigerator/freezer" was the "origin of the fire" – specifically the Fire Department found that the freezer unit was the origin of the fire.

Plaintiff brought suit against Fridge'R'Us for, among other things, negligence, strict products liability and the breach of implied warranty of merchantability. Fridge'R'Us then filed a third-party complaint against the manufacturer of the refrigerator's defroster seeking common law indemnification and against the producer and supplier of the bracket control assembly which incorporated the defroster.

During trial, the Plaintiff's expert testified that based upon his review of the defroster, as well as his examination of other appliances present near the refrigerator in Plaintiff's kitchen, the fire was caused by the defroster failing to work as intended. Fridge'R'Us' expert then testified that in comparing the subject defroster to an exemplar and there was no difference. Thus, he determined that the fire could not have originated from the defroster, but instead, had likely started from the blender which was located next to the refrigerator due to evidence of electrical arcing in the blender.

The jury was given the following separate charges on the strict products liability and breach of warranty and was also given a special verdict sheet with the following five questions:

"Did the fire that occurred in Plaintiff's home originate in the Fridge'R'Us refrigerator/freezer? . . .

Was the defroster installed in the Fridge'R'Us refrigerator/freezer defective?

Was the defect in the defroster installed in the Fridge'R'Us refrigerator/freezer a substantial contributing factor in causing the fire that occurred at Plaintiff's home?

Did Fridge'R'Us breach its warranty in that the refrigerator/freezer was not reasonably fit for its intended purpose?

Was the breach of warranty by Fridge'R'Us a substantial contributing factor in causing the fire that occurred at Plaintiff's home?

Fridge'R'Us did not object to the jury charge, nor the verdict sheet presented to the jury.

The jury returned a verdict finding in favor of Fridge'R'Us on the products liability claim, but for the plaintiff on the breach of warranty claim. The jury had answered "yes" to the first question on the verdict sheet, "no" to the second question, left the third unanswered as academic and answered "yes" to the fourth and fifth questions.

After the jurors were discharge, Fridge'R'Us then made a post-trial motion for a directed verdict on sufficiency of evidence grounds and to set aside the verdict as irreconcilable.

Questions

1. Was the verdict irreconcilable/inconsistent?
2. Do you see anything notable or find any issues with respect to the verdict sheet submitted to the jury?
3. With reference to the questions asked on the verdict sheet, do you see any flaws in the Third Department's reasoning?
4. Did Fridge'R'Us properly preserve it's argument that the jury verdict was inconsistent?
5. How should the Court of Appeals rule on Plaintiff's appeal?

Fact Pattern 12

Inconsistent Pain and Suffering Verdict

Plaintiff, a 70-year-old man, recently moved into an apartment complex for residents 55 and older. The complex consisted of multiple buildings which formed a little community and the mail room for all residents was located in the main building, requiring residents who live in the ancillary buildings to walk outside in order to retrieve their mail.

One day in February, Plaintiff was walking to retrieve his mail and slipped on ice that had accumulated on the stairs outside which led up to the mailroom, which caused him to fracture his ankle. An employee of the building's leasing office testified that he had noticed the ice on the day of the accident and called for someone from the maintenance team to come salt and sand the ice, but Plaintiff had fallen before the maintenance worker arrived.

Plaintiff testified that his leg was in a cast for six weeks, he was confined to his home for eight weeks; he continued to experience pain in his injured ankle and arthritic knee; he was regularly prescribed pain killers and attended physical therapy 2 to 3 times a week for a year; and, as a result of the injury, was no longer able to go dancing or to socialize as frequently. Plaintiff's orthopedist testified that the fall was the proximate cause of his fractured right ankle and had aggravated a previously asymptomatic arthritic right knee. The orthopedist further confirmed Plaintiff's continuing complaints of pain and his prescription of pain killers and anti-inflammatory medication, stating his opinion that Plaintiff's ankle required arthroscopic surgery. The physician further opined that Plaintiff would experience chronic pain on a permanent basis.

Defendants offered no medical evidence to refute or discredit these claims.

The jury returned a verdict finding that Plaintiff was 60% negligent and Defendant was 40% negligent and awarded \$2,000 for past medical expenses. Immediately following discharge of the jury, Plaintiff moved to set aside the verdict as inconsistent.

Questions

1. Was Plaintiff's contention that the jury's verdict was inconsistent properly preserved?
2. What should be the outcome of plaintiff's motion?
3. Given that Plaintiff failed to properly preserve its objection that the jury verdict was inconsistent, does the Court have any means to provide Plaintiff with relief?

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STRATEGY LESSON: if you realize too late that you should have objected to the jury's verdict as inconsistent, see if you can formulate your argument as one for a verdict that is contrary to the evidence so that it might be appealable.

HOW APPELLATE PRACTICE CAN IMPACT TRIAL STRATEGY

FACT PATTERN 1 - EXPERT DISCLOSURE

- Surgical Procedure and Complications
 - Sarah Thompson underwent surgery in March 2024
 - Performed by Dr. John Smith at City Hospital
 - Severe post-operative complications led to prolonged hospitalization and additional surgeries
- Filing of Lawsuit
 - Sarah filed a medical malpractice lawsuit in June 2025
 - Alleged negligence by Dr. Smith and City Hospital
- Trial Proceedings
 - Sarah's attorney requested expert witness disclosures
 - Defendants disclosed Dr. Emily Davis as their expert one month before trial
 - Dr. Davis to testify on standard of care and causation

FACT PATTERN 2 - NOTICE OF ENTRY

- Complex Spinal Surgery
 - Performed by Dr. Jane Smith
 - Patient: Mr. John Doe
- Post-Operative Complications
 - Severe complications including paralysis
 - Mr. Doe filed a medical malpractice lawsuit
- Allegations
 - Deviation from standard of care
 - Failure to properly monitor post-operative symptoms
- Trial Proceeding
 - Summary judgment in favor of Dr. Smith and ABC Medical Center
- Plaintiff's counsel sent a letter to defense counsel which stated:
 - "Attached please find the decision entered in the county clerk's office."
 - The decision that was enclosed was not stamped or signed by the Clerk's office.
- Defendant filed a Notice of Appeal two years later.

FACT PATTERN 3 - INTERLOCUTORY ORDERS

- Incident Details
 - Plaintiff is injured at a construction site, and commences lawsuit alleging a violation of New York's scaffold law.
- Supreme Court grants summary judgment to plaintiff on liability.
- Appellate Division, in a 3-2 decision, reverses the grant of summary judgment.
- At trial different facts are developed and the jury finds for the defendant.
- The Appellate Division affirms the dismissal after the trial.
- Leave to appeal to the Court of Appeals is granted.

FACT PATTERN 4 - PRESERVATION

- Background of the Case
 - ABC Corp. and XYZ Developers enter into a contract for a commercial building project
 - Contract requires written and signed modifications
 - XYZ Developers request changes; ABC Corp. verbally agrees
 - XYZ Developers refuse to pay for additional costs due to lack of written agreement
- Trial Proceedings
 - ABC Corp. files a breach of contract lawsuit
 - XYZ Developers argue lack of written modification bars recovery of extra costs
 - ABC Corp. argues waiver of written requirement through conduct and oral assurances
 - Emails acknowledging modifications are excluded as hearsay
 - Trial court rules in favor of XYZ Developers

FACT PATTERN 5- MOTIONS IN LIMINE

- Home Care Incident
 - Nurse T administered care to AF, a child with disabilities, by applying the prescribed skin cream following a bath.
 - AF experienced skin peeling, leading the parents to take both AF and Nurse T to the pediatrician for evaluation.
- Medical Evaluation
 - The initial diagnosis suggested possible allergic reactions; however, the biopsy results were missing from the medical records.
 - The Chief of the Burn Unit subsequently diagnosed AF with a Thermal Burn.
- Legal Action
 - Due to insufficient expert representation from her criminal attorney, Nurse T entered a guilty plea and served one year in prison.

MOTION PRACTICE AND TRIAL COURT'S RULINGS

- Motion in Limine by Plaintiff's Parents
 - Requested for directed verdict on liability
- Nurse T's Argument
 - Claimed motion was an untimely summary judgment motion
- Trial Court's Decision
 - Granted plaintiff's motion in part
 - Jury could not consider Nurse T's departure from standard of care
 - Jury could consider proximate cause
- Evidence Presentation Restrictions
 - Nurse T and employer precluded from presenting evidence-in-chief about allergic reaction
 - Allowed to cross-examine plaintiff's witnesses using medical records

FACT PATTERN 6- DIRECTED VERDICT MOTIONS

- Case Overview
 - Decedent was a patient in a hospital's telemetry unit
 - Heart monitored by a telemetry machine
 - Telemetry machine printed paper strips documenting heart condition
- Incident Details
 - Decedent passed away
 - Telemetry strips were lost
- Pre-trial Proceedings
 - Plaintiff moved to strike defendant's answer as a spoliation sanction
 - Motion was denied
- "Trial" proceedings
 - Plaintiff makes an oral application for a directed verdict at the start of jury selection, which is granted.

FACT PATTERN 7- EMERGENCY APPLICATIONS

- Mother admitted for Cesarean section
 - Child born healthy
 - Mother suffered complications
- Mother refused blood transfusion
- Hospital sought court permission to perform transfusion
 - Ex parte order requested
 - Supreme Court granted order
- Blood transfusions administered
 - Over objections of mother and husband

FACT PATTERN 8— ADMISSIBILITY OF SETTLEMENTS

- Incident Details
 - Plaintiff, commenced a medical malpractice action.
- Plaintiff settled with one of the defendants.
 - At trial defense counsel asked how much money the settling doctor paid to the plaintiff for.
 - Plaintiff's motion for a mistrial was denied, but cross-examination on the topic was stopped.

FACT PATTERN 9– HIGH-LOW AGREEMENTS

- Incident Details
 - Plaintiff, a pedestrian, was struck by a vehicle and brought to the hospital.
- Litigation
 - Plaintiff sued the operator of the vehicle.
 - Before a verdict, the parties entered into a high-low agreement.
 - The “low” was \$75,000 if defendant was found to be 75% or less at fault.
 - The “high” was \$500,000 if defendant was found to be 75% or more at fault.
 - The jury apportioned 70% of fault to defendant and 30% to plaintiff, and that plaintiff was entitled to \$250,000.

FACT PATTERN 10 - JURY INSTRUCTIONS

- License Agreement and Promotion
 - Plaintiff entered into a license agreement with Defendant, a celebrity
 - Agreement was for the development and promotion of a fragrance line
- Allegations and Counterclaims
 - Plaintiff sued Defendant for breach of agreement and implied covenant of good faith
 - Defendant counterclaimed for unpaid royalties
- Court's Decision
 - Court awarded Defendant \$5 million in damages
- Appeal by Plaintiff
 - Plaintiff appealed, arguing improper jury instructions
 - Dispute over burden of proof regarding conditions precedent

FACT PATTERN 11- INCONSISTENT VERDICTS

- Incident Overview
 - Plaintiff bought a new refrigerator from Fridge'R'Us
 - Fire broke out in Plaintiff's kitchen three weeks after installation
 - Fire caused extensive damage, requiring three firetrucks
- Fire Department Investigation
 - Report found refrigerator/freezer as the fire's origin
 - Freezer unit specifically identified as the source
- Legal Actions
 - Plaintiff sued Fridge'R'Us for negligence, strict products liability, and breach of implied warranty of merchantability
 - Fridge'R'Us filed a third-party complaint against defroster manufacturer and bracket control assembly producer

FACT PATTERN 11- INCONSISTENT VERDICTS

- Jury was asked:
 - Did the fire that occurred in Plaintiff's home originate in the Fridges ' R' US refrigerator/freezer?
 - Was the defroster installed in the Fridges ' R' US refrigerator/freezer defective?
 - Was the defect in the defroster installed in the Fridge'R'Us refrigerator/freezer a substantial contributing factor in causing the fire that occurred at Plaintiff's home?
 - Did Fridge'R'Us breach its warranty in that the refrigerator/freezer was not reasonably fit for its intended purpose?
 - Did the breach of warranty by Fridge'R'Us a substantial contributing factor in causing the fire that occurred at Plaintiff's home?
- Jury answered:
 - The refrigerator was the origin of the fire
 - The refrigerator was defective
 - Defendant breached its warranty because refrigerator was not fit for its intended purpose.
 - The breach of warranty was a substantial factor in causing the fire.

FACT PATTERN 12 - INCONSISTENT PAIN AND SUFFERING VERDICT

- Incident Details
 - 70-year-old Plaintiff moved into a 55+ apartment complex
 - Slipped on ice outside the mailroom in February
 - Fractured ankle due to the fall
- Testimonies
 - Employee noticed ice and called maintenance
 - Maintenance did not arrive before Plaintiff fell
- Injury and Treatment
 - Leg in cast for six weeks
 - Confined to home for eight weeks
- Only damages awarded by jury was \$2,000 for past medical expenses.
- Plaintiff objected that verdict was inconsistent after jury was discharged.

CONCLUSION