

IN BRIEF

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by

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ATTORNEYS AT LAW

DECISIONS BY THE SUPREME COURT OF VIRGINIA REGARDING INSURANCE INDUSTRY ISSUES February 28, 2008 SESSION

The following case summaries involve insurance litigation issues. We have downloaded these summaries directly from the Virginia Supreme Court website. We offer them to you without further legal analysis. However, if you would like a brief legal analysis or the full text of any of these cases, please make your request by return e-mail. If you would like to discuss the ramifications of any of the decisions, please call (804) 378-7600: ext. 3304 for Ray; 3305 for Kevin or 3316 for Mark.

[070304](#) **Brown v. Hoffman** 02/29/2008

In a medical malpractice case involving a patient's death from internal bleeding after kidney surgery, it was error for the trial court to strike plaintiff's evidence. Reviewing the evidence in the light most favorable to the plaintiff, reasonable minds could differ as to whether the defendant doctor encountered a normal or abnormal anatomical configuration during the surgery. Therefore, the issue should have been decided by the jury, and the trial court erred in striking plaintiff's evidence and entering summary judgment for the defendant. The judgment is reversed and the case is remanded for a new trial.

[070344](#) **Hicks v. Mellis** 02/29/2008

Because an order reinstating a medical malpractice action to the circuit court's docket under Code § 8.01-335(B) that was entered without notice to the defendant was not void ab initio, and the action was thereafter nonsuited and refiled, the circuit court erred in dismissing the case on statute of limitation grounds. The judgment is reversed.

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Nothing on or in this material creates an express or implied contract. If you have questions or comments regarding this newsletter, please contact: Mark C. Nanavati, (804) 378-7600 ext. 3316, mnanavati@snllaw.com.