



(Docket No. 131411)

ROBERT L. SCHILLING, Appellant, v. QUINCY PHYSICIANS & SURGEONS CLINIC, S.C., d/b/a Quincy Medical Group *et al.*, Appellees.

*Opinion filed January 23, 2026.*

Justice Rochford delivered the judgment of the court, with opinion.

This case concerns whether a jury note reflecting disagreement among jurors who later rendered a unanimous verdict should have resulted in the declaration of a mistrial in the trial court. Plaintiff's suit claimed medical malpractice leading to the amputation of his leg below the knee. The jury deliberated for 5½ hours in the first day of deliberations, sending a note seeking clarification and a note indicating the jurors were divided. The jury resumed deliberations the next day, and roughly half an hour later, one juror sent a note indicating he or she would sign a verdict for the defense only to end deliberations and stating that he or she believed the doctor was negligent. The trial court denied plaintiff's motion for a mistrial and gave the jury a *Prim* instruction (*People v. Prim*, 53 Ill. 2d 62 (1972)), informing the jury that its verdict must be the considered judgment of each juror, unanimous, and the result of agreement between jurors if agreement can be reached without doing violence to individual judgment. The jury resumed deliberations and sent an additional clarifying note before reaching a verdict for the defense at 11 a.m.

The trial court polled the jurors, asking each "was this then and is this now your verdict?" Each juror answered "yes," but plaintiff renewed his request for a mistrial, arguing that one juror hesitated before answering and should have been further questioned. Plaintiff filed a motion for a new trial on similar grounds. The appellate court affirmed, as did the supreme court. The note indicating one juror would sign the verdict against his or her judgment came before the *Prim* instruction. One could reasonably interpret the note as an attempt to get the court's attention as to the perceived deadlock. Further, the jury did not return a verdict at the same time as the note; instead, it continued deliberating. As a result, the note can be interpreted as a plea for guidance and not a signal that the juror had abandoned his or her obligations. Further, applying the test for whether the trial court abused its discretion in denying a mistrial, the court found that the trial court did not abuse its discretion. The court likewise found that the juror who wrote the note had the opportunity to express any coercion, mistake, or dissent from the verdict during the polling. The juror expressed none.