

CALDWELL, WEDNESDAY, MAY 8, 2024 at 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

ANDREA SCHRIVER and KYLE)
SCHRIVER,)
)
Plaintiffs-Appellants-)
Cross Respondents,)
)
v.)
)
ZACHARY JOSEPH RAPTOSH and)
LAKESHORE ANIMAL HOSPITAL, LLC,)
)
Defendants-Respondents-)
Cross Appellants.)
)

Docket No. 49818

Appeal from the District Court of the Third Judicial District of the State of Idaho, Canyon County, Matthew J. Roker, District Judge.

Animal Law Offices, PLLC, Bellingham, Washington, for Appellants.

Anderson Julian & Hull, LLP, Boise, for Respondents.

This appeal involves a question of first impression, whether the death of a pet cat occurring in the context of alleged veterinary malpractice may give rise to a claim for emotional damages. Andrea and Kyle Schriver (“the Schrivs”) appeal the district court’s partial grant of summary judgment in favor of Zachary Raptosh and Lakeshore Animal Hospital, LLC (collectively “Raptosh”). Gypsy, the Schrivs’ pet cat, died following an attempted cystocentesis, a diagnostic procedure for a urinary tract infection in which a needle is inserted through the abdominal wall and into the bladder to extract urine. The Schrivs subsequently filed a complaint against Raptosh, alleging that Raptosh killed Gypsy by negligently performing the cystocentesis, without Andrea’s informed consent, and then subjected Gypsy’s remains to an unauthorized necropsy.

The Schrivs’ complaint included several causes of action, including conversion/trespass to chattels; intentional and/or reckless infliction of emotional distress (IIED) (as to Andrea Schriver); property damage/destruction; professional negligence; negligent infliction of emotional Distress (NIED); and lack of informed consent. The Schrivs sought economic damages related to the intrinsic value and loss of use of Gypsy (among veterinary bills and other

related economic damages), as well as noneconomic damages related to loss of Gypsy's companionship, mental anguish, emotional distress, and loss of enjoyment of life. The district court granted partial summary judgment in favor of Raptosh on the IIED, NIED, and lack of informed consent claims, thereby effectively denying the Schriver's recovery of non-economic or emotional damages related to the loss of their cat. However, the district court also determined that the measure of damages for the loss of the cat is value to the owner, rather than fair market value.

The Schrivners appeal the partial grant of summary judgment in favor of Raptosh. They argue the district court erred dismissing their claims for IIED, NIED, and lack of informed consent. They also request that the Idaho Supreme Court hold as a matter of law that emotional distress damages are recoverable for the death of a pet as part of a claim for trespass to chattels/conversion. Raptosh cross-appeals the district court's determination that the measure of damages for the loss of the cat is the value to owner. Raptosh argues the correct measure of damages is fair market value of the cat, without damage; he requests that the Idaho Supreme Court remand the matter to the district court for the entry of an order limiting the Schrivners' property damage to \$200, which Raptosh asserts is the maximum market value for the cat.