

SUPREME COURT DECISIONS

MICHAEL L. KELLY v. PAMELA WAGNER

No. 42301

Release date March 2, 2017

Idaho Supreme Court

JONES, Justice

In an appeal arising out of Kootenai County, the Idaho Supreme Court affirmed the district court's judgment awarding \$13,762.54 to contractor Michael Kelly ("Kelly"). On appeal, Kelly's former employer, Pamela Wagner ("Wagner"), argued that the district court's judgment was error because: (1) the district court's finding that Kelly was owed \$9,429.64 on account of certain unpaid invoices was not supported by substantial and competent evidence; (2) the district court erred in treating the invoices as individual contracts as opposed to an open account agreement; and (3) the district court erred in awarding prejudgment interest to Kelly because Wagner had prevailed on an unliquidated counterclaim. The Idaho Supreme Court held on appeal that: (1) the invoices in combination with Kelly's testimony constituted substantial and competent evidence supporting the district court's findings; (2) the district court did not err in treating Kelly and Wagner's interactions as a series of individual contracts rather than as an open account agreement; and (3) prejudgment interest was appropriate on Kelly's claim because Wagner's counterclaim was not so interrelated with Kelly's claim to make it incalculable.

<https://isc.idaho.gov/opinions/42301.pdf>

JOHN E. WYMAN v. JOHN J. ECK

No. 43730

Release date February 28, 2017

Idaho Supreme Court

BURDICK, Chief Justice

The Idaho Supreme Court affirmed the Ada County district court's grant of summary judgment to Dr. John J. Eck, Julie L. Scott, P.A., and Center for Lifetime Health, LLC (Respondents). John and Margo Wyman sued Respondents for various medical malpractice claims arising from Respondents' alleged failure to diagnose John's cancer. The Court affirmed the district court's holding that the Wymans' claims were barred by Idaho Code section 5-219(4)'s two-year statute of limitations. The Court rejected the Wymans' argument that John's cancer did not become objectively ascertainable until a biopsy was performed because uncontradicted expert testimony established that John's cancer was capable of being diagnosed before the biopsy was performed. Reasoning that the undisputed facts rendered the Wymans' claims untimely, the Court affirmed that summary judgment was properly granted to Respondents.

<https://isc.idaho.gov/opinions/43730.pdf>

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CHANNEL (BLACKER) RISH v. THE HOME DEPOT, INC.

No. 43677

Release date February 28, 2017

Idaho Supreme Court

BURDICK, Chief Justice

The Idaho Supreme Court vacated the Industrial Commission's order denying medical care benefits to Channel Rish. The Court reasoned that the Commission erred on two grounds. First, the Commission improperly based its decision on the date Rish achieved maximum medical improvement. The Court emphasized that neither statute nor precedent made maximum medical improvement a relevant consideration when determining whether medical care is reasonable. Second, the Commission erred by retrospectively analyzing the efficacy of Rish's medical care in contravention of *Chavez v. Stokes*, 158 Idaho 793, 353 P.3d 414 (2015). Because the Commission misapplied the governing law, the Court vacated the Commission's order and remanded for proceedings consistent with its opinion.

<https://isc.idaho.gov/opinions/43677.pdf>

STATE OF IDAHO v. THOMAS CAMPBELL KELLEY

No. 44178

Release date February 27, 2017

Idaho Supreme Court

BURDICK, Chief Justice

The Idaho Supreme Court affirmed the Ada County district court's award of restitution entered under Idaho Code section 37-2732(k) requiring Thomas Kelley to pay the State's expenses actually incurred while prosecuting Kelley's marijuana trafficking conviction. The Court rejected Kelley's constitutional attacks on section 37-2732(k), concluding the weight of authority demonstrated section 37-2732(k) violates neither the Sixth nor the Fourteenth Amendments to the U.S. Constitution. Additionally, the Court concluded the district court did not abuse its discretion by awarding restitution despite Kelley's financial circumstances, as the district court properly found Kelley had a foreseeable ability to repay the award. Thus, the Court affirmed that restitution under section 37-2732(k) was proper.

<https://isc.idaho.gov/opinions/44178.pdf>

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STATE OF IDAHO v. JAMIE LEE NELSON aka RINEHART
No. 44177
Release date February 27, 2017
Idaho Supreme Court

BURDICK, Chief Justice

The Idaho Supreme Court vacated the Ada County district court's award of restitution entered under Idaho Code section 37-2732(k) requiring Jamie Nelson to pay the State's expenses actually incurred while prosecuting Nelson's drug convictions. Emphasizing that the only "evidence" supporting the State's request for restitution was a one-paragraph, unsworn statement, the Court held that the award of restitution was not supported by evidence and vacated the award. Additionally, because the State already had two opportunities to claim restitution but never presented sufficient evidence, the Court declined to remand the case.

<https://isc.idaho.gov/opinions/44177.pdf>

STATE OF IDAHO v. JEREMY YORK CUNNINGHAM
No. 44176
Release date February 27, 2017
Idaho Supreme Court

BURDICK, Chief Justice

The Idaho Supreme Court vacated the Ada County district court's award of restitution entered under Idaho Code section 37-2732(k) requiring Jeremy Cunningham to pay the State's expenses actually incurred while prosecuting Cunningham's drug conviction. Emphasizing that the only "evidence" supporting the State's request for restitution was a one-paragraph, unsworn statement, the Court held that the award of restitution was not supported by evidence, vacated the award, and remanded the case.

<https://isc.idaho.gov/opinions/44176.pdf>

AGSTAR FINANCIAL SERVICES, ACA v. GORDON PAVING COMPANY, INC.
No. 43747
Release date February 27, 2017
Idaho Supreme Court

J. JONES, Justice Pro Tem.

The Supreme Court reversed the district court's holding that AgStar Financial Services could recover against individuals who had guaranteed the indebtedness of Gordon Paving after AgStar sought and failed to obtain a deficiency judgment in its separate mortgage foreclosure action against Gordon Paving in Twin Falls County. The Court held that the reasonable value

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of the real property AgStar bought through credit bids at the foreclosure sale exceeded the total amount of the debt owing to it and that the debt was satisfied and discharged as a result.

<https://isc.idaho.gov/opinions/43747.pdf>

AGSTAR FINANCIAL SERVICES, ACA v. NORTHWEST SAND & GRAVEL, INC.

No. 43932

Release date February 24, 2017

Idaho Supreme Court

J. JONES, Justice Pro Tem

The Supreme Court reversed the district court's holding that AgStar Financial Services could proceed to sell Northwest Sand & Gravel's personal property after having sought and failed to obtain a deficiency judgment in its mortgage foreclosure action in Twin Falls County. The Court held that the reasonable value of the real property AgStar bought through credit bids at the foreclosure sale exceeded the total amount of the debt owing to it and that the debt was satisfied and discharged as a result.

<https://isc.idaho.gov/opinions/42932.pdf>

GARY DAVIS v. HAMMACK MANAGEMENT, INC.

No. 43863

Release date February 24, 2017

Idaho Supreme Court

J. JONES, Justice Pro Tem

This is a total and permanent disability case where Gary Davis ("Claimant"), Hammack Management, Inc. ("Employer"), the Idaho State Insurance Fund ("Surety"), and the Idaho Industrial Special Indemnity Fund ("ISIF") entered into a compensation agreement ("Stipulation"). The parties agreed that Claimant became totally and permanently disabled based on the combined effects of his preexisting impairments and a workplace injury that occurred in 2004. The Stipulation outlined each party's financial obligations to Claimant, including a credit to Employer for permanent partial impairment benefits previously paid. The Idaho Industrial Commission ("Commission") approved the Stipulation. Subsequently, this Court issued its decision in *Corgatelli v. Steel West, Inc.*, 157 Idaho 287, 335 P.3d 1150 (2014), prohibiting such a credit. Claimant then sought a declaratory ruling that the credit in the Stipulation was void. The Commission issued an order stating that the Stipulation was binding as written and subsequently denied Claimant's motion for reconsideration. Claimant appealed to the Supreme Court. The Court reversed the Commission's order upholding the Stipulation and its PPI credit.

<https://isc.idaho.gov/opinions/43863.pdf>

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WILLIAM MICHAEL NICHOLSON v. COEUR D'ALENE PLACER MINING CORP.
No. 43440

Release date February 24, 2017

Idaho Supreme Court

EISMANN, Justice.

The Idaho Supreme Court affirmed the judgment of the district court. This is an appeal out of Shoshone County from a judgment: (a) denying recovery on an alleged oral promise to grant the Plaintiffs a right of first refusal with respect to a parcel of real property they were leasing, (b) denying recovery on an alleged oral promise to purchase the Plaintiffs' buildings that were located on that property, and (c) finding that the Plaintiffs were guilty of unlawful detainer. Affirmed.

<https://isc.idaho.gov/opinions/43440.pdf>

DOUGLAS VISSER v. AUTO ALLEY, LLC
No. 43432

Release date February 24, 2017

Idaho Supreme Court

HORTON, Justice

In an appeal from Bonner County, the Supreme Court affirmed the district court's order granting a writ of possession and quieting title to certain real property in Douglas Visser. Auto Alley, LLC, Calvin Visser, and Vicki Visser used a portion of the property to operate a wrecking yard business. In 2014 a dispute arose and the parties entered into stipulated judgment which provided that Douglas would convey a portion of the property known as "Lot 2" to Vicki if Vicki completely performed a number of specific obligations within a specified time frame. When Vicki failed to complete these obligations, Douglas brought this motion to enforce the judgment and the district court granted the motion. Vicki appealed arguing that the stipulated judgment was unenforceable as it contained a forfeiture provision and that Douglas had prevented her from complying with the judgment. The Supreme Court affirmed the district court's order determination that the appeal from the stipulated judgment was not properly before the Court. The Supreme Court also found that the district court's finding that Douglas had not prevented Vicki from complying with the stipulated judgment was supported by substantial and competent evidence.

<https://isc.idaho.gov/opinions/43432.pdf>

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THE WATKINS COMPANY, LLC v. ESTATE OF MICHAEL STORMS
No. 43649
Release date February 24, 2017
Idaho Supreme Court

HORTON, Justice,

In an appeal from Bonneville County, the Supreme Court affirmed the award of attorney fees to the Estate of Michael Storms (Storms) and Brownstone Companies, Inc. (Brownstone). The Watkins Company, LLC (Watkins) initiated this action alleging that Storms and Brownstone had breached a commercial lease and seeking a temporary restraining order (TRO) to prevent Storms and Brownstone from removing property from the leased space. Storms and Brownstone counterclaimed for damages resulting from the TRO. Storms and Brownstone prevailed at trial and were awarded attorney fees in the amount of \$72,312.36. Watkins appealed, arguing that the award of attorney fees was not supported by substantial and competent evidence as Storms and Brownstone had not distinguished between recoverable and unrecoverable attorney fees and that the district court erred when it apportioned fees based on its experience and familiarity with the case. The Supreme Court found that Watkins had failed to properly preserve the issue for appeal because Watkins did not raise it before the district court. The Supreme Court awarded Storms and Brownstone attorney fees and costs on appeal.

<https://isc.idaho.gov/opinions/43649.pdf>

COURT OF APPEALS DECISIONS

STATE OF IDAHO v. JAMES DARNELL BLACK
No. 44191
Release date March 2, 2017
Idaho Court of Appeals

GUTIERREZ, Judge

James Darnell Black appeals from his judgment of conviction after pleading guilty to criminal possession of a financial transaction card. He argues that the district court erred in denying Black's request for a presentence psychological evaluation and that his sentence is excessive. Before sentencing, Black filed a pro se motion for a psychological evaluation pursuant to I.C. § 19-2522. In support of his motion, Black argued that his mental condition would be a significant factor at sentencing because he suffers from mild mental retardation, depression, bipolar disorder, paranoia, and anxiety. The Court of Appeals held that "After careful review of the facts known to the sentencing court, we conclude that there was sufficient reason to believe that Black's mental condition would be a significant factor at sentencing." The Court of Appeals held that the district court

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abused its discretion in denying Black's motion for a psychological evaluation pursuant to I.C. § 19-2522 and vacated Black's sentence.

<https://isc.idaho.gov/opinions/44191.pdf>

CROSSROADS NEIGHBORHOOD ASSOCIATION, INC. v. RICK ERICKSON

No. 44075

Release date March 2, 2017

Idaho Court of Appeals

GUTIERREZ, Judge

Rick A. Erickson appeals from the district court's order of dismissal of Erickson's intermediate appeal from the magistrate court. Erickson argues the district court erred in denying him thirty-five days to file his appellant's brief. The Court of Appeals agreed. The case was remanded.

<https://isc.idaho.gov/opinions/44075.pdf>

STATE OF IDAHO v. JOSE LUIS SANCHEZ

No. 43293

Release date February 27, 2017

Idaho Court of Appeals

GUTIERREZ, Judge

Jose Luis Sanchez appeals from his judgments of conviction for two counts of sexual abuse of a child under the age of sixteen years and five counts of lewd conduct with a child under sixteen involving two different victims. Specifically, Sanchez argues his convictions should be vacated because (1) the district court improperly joined the offenses against the two victims; (2) the State committed misconduct by allowing its witness to comment about Sanchez's invocation of his right to counsel; and (3) the impact of such cumulative errors was not harmless. After the preliminary hearing in that case, another female came forward with allegations of sexual abuse by Sanchez. The State then charged Sanchez in a separate case with two counts of lewd conduct with a child and one count of sexual abuse of a child for offenses Sanchez allegedly committed against a different eight-year-old female victim, T.C., in 2006. The State then filed a "motion to consolidate" the cases for the purpose of a joint trial on the basis that the charges arose "from the same time period and factual situations." The Court held that the district court erred in granting the State's motion to join the charges of the two separate victims and that the error was not harmless. The judgments of conviction were vacated.

<https://isc.idaho.gov/opinions/43293SUB.pdf>

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IDAHO DEPARTMENT OF HEALTH AND WELFARE v. JANE DOE (2016-43)

No. 44536

Release date February 23, 2017

Idaho Court of Appeals

GUTIERREZ, Judge

Jane Doe and her husband, John Doe, have an extensive history of drug abuse and have been involved in child protection proceedings in the past. In February 2015, the Department of Health and Welfare (Department) received reports indicating that neither Jane nor John were in compliance with the terms of their probations and that the three children in Jane and John's care were unsafe. Jane argued the magistrate violated Jane's right to due process by terminating her parental rights without complying with statutory procedural requirements. Specifically, she argued that the magistrate violated the statutory mandate in I.C. § 16-2010(1) by not issuing a written order containing the findings of fact and conclusions of law. The Court held that there was clear and convincing evidence that Jane neglected her children by failing to provide the proper parental care and control for their well-being and that termination of Jane's parental rights was in the children's best interests. Affirmed.

<https://isc.idaho.gov/opinions/44536sub.pdf>