

SUMMARY STATEMENT

Kugler v. Nelson, Docket No. 42690

In an appeal from Bannock County, the Supreme Court affirmed the district court's summary judgment dismissal of John Kugler's case. The case involved a chain of corporate transactions of H & M Distributing, Inc., a wholesale distributor of beverages, cigarettes, and other miscellaneous supplies. In the underlying action, Kugler sought damages against Ron Nelson, David Powers, Steven Kenison, William Armstrong, and Powers Candy (collectively "the Defendants"), alleging breaches of various agreements and wrongful actions taken by the Defendants who were shareholders and board members of H & M. The district court granted the Defendants' motion for summary judgment, dismissing all of Kugler's claims because it found that the claims were derivative and Kugler failed to comply with the requirements for bringing a derivative action. Kugler appealed, challenging the district court's grant of summary judgment and award of attorney fees. The Supreme Court affirmed, ruling that Kugler could not pursue his claims, which were largely derivative, because he had failed to properly initiate a derivative action. The Supreme Court also upheld the district court's award of attorney fees to the Defendants based upon Idaho Code section 12-120(3).