

## SUMMARY STATEMENT

*Lee v. Litster*, Docket No. 43554

In a case arising out of Ada County, the Idaho Supreme Court affirmed a district court grant of summary judgment in favor of Plaintiffs/Respondents Grant Lee (“Grant”), Jason Lee (“Jason”), and Scott McNab (“Scott”). The appeal concerned the enforceability of three promissory notes, which were prepared and issued by Appellant, Jeremy Litster (“Jeremy”), to Jason, Scott, and a non-party Rick Lee (“Rick”). Rick later assigned his promissory note to Grant. Jeremy issued the three promissory notes in exchange for “investments” made by the three recipients. The “investments” failed, and Rick, Jason, and Scott demanded payment on their promissory notes. Jeremy made payments on their promissory notes in January, February, April, and June 2011, but ceased making payments when he learned that the Idaho Department of Finance had been notified of his “investment” solicitation activity.

Grant, Jason, and Scott filed a complaint against Jeremy, and his wife (collectively the “Litsters”) alleging breach of contract for failure to pay the amounts due on the promissory notes. In response, the Litsters asserted the affirmative defense that the notes were issued under duress. Ultimately, a district court granted Jason, Grant, and Scott’s summary judgment motion regarding the enforceability of the promissory notes on two grounds: (1) the Litsters failed to establish a prima facie claim for duress, and (2) Jeremy ratified the promissory notes.

On appeal, the Litsters only asserted error as to the first ground for summary judgment, arguing that the evidence was sufficient to support a claim for duress, which would render the promissory notes unenforceable. Crucially, the Litsters did not challenge the holding that Jeremy ratified the promissory notes. The Idaho Supreme Court affirmed the district court’s grant of summary judgment on the unchallenged ground that Jeremy ratified the promissory notes. Costs on appeal were awarded to Grant, Jason, and Scott; however, they were not awarded attorney’s fees on appeal because their request did not comply with Idaho Appellate Rule 35(b)(6).