

SUMMARY STATEMENT

Forbush v. Sagecrest et al.

Docket No. 44053

Travis Forbush and Gretchen Hymas, individually and as natural parents of McQuen C. Forbush and Breanna Halowell (Appellants), appealed from the Ada County district court's grant of summary judgment to Sagecrest Multifamily Property Owners' Association, Inc. (the POA), and Jon Kalsbeek (Kalsbeek). Forbush and Halowell were overnight guests of a tenant who leased a unit at the Sagecrest Apartment Complex. During the night, hazardous levels of carbon monoxide filled the unit, killing Forbush and injuring Halowell. Appellants brought negligence claims against the POA and Kalsbeek after the incident. The district court granted summary judgment to the POA and Kalsbeek.

On appeal, the Idaho Supreme Court affirmed in part, reversed in part, and remanded. The Court held that summary judgment was properly granted to the POA on the issue of whether it owed a premises liability-based duty of care because the POA was neither an owner nor possessor of the property at issue. However, the Court held that summary judgment was improperly granted on the issues of whether (1) the POA acquired a duty of care as a result of voluntary undertakings; and (2) the POA was vicariously liable for the conduct of its agent, First Rate Property Management. Finally, the Court held that summary judgment was improperly granted to Kalsbeek on the issue of whether he acquired a duty of care as a result of voluntary undertakings. Accordingly, the Court affirmed in part, reversed in part, and remanded for further proceedings consistent with its opinion.