

## SUMMARY STATEMENT

*Dunn v. Idaho State Tax Commission*, Docket No. 44378

In an appeal arising out of Kootenai County, the Idaho Supreme Court affirmed the judgment of a district court. Appellant, Linda Dunn (“Linda”), challenged a district court’s decision affirming a tax deficiency assessed by Respondent, the Idaho State Tax Commission (the “Commission”). The Commission levied a deficiency against Dunn’s one-half community interest in her husband’s (“Husband”) wages, which were not earned in Idaho. Specifically, Linda argued as follows: (1) the tax at issue violated the dormant Commerce Clause; (2) the tax at issue violated the Privileges and Immunities Clause; and (3) Texas law applied, and the wages at issue were not subject to Idaho’s income tax.

The Idaho Supreme Court held as follows: (1) the tax at issue did not violate the dormant Commerce Clause because Linda did not identify an interstate economic activity or market that was burdened by the taxation of her one-half community interest in Husband’s Texas earnings; (2) the Privileges and Immunities Clause was not implicated because Linda did not demonstrate that Idaho, without substantial reason, taxed a nonresident differently than a resident; and (3) while Texas law applied to determine whether Husband’s earnings were community property or separate property, Idaho law applied to Linda’s interest therein because she was an Idaho resident. Neither party requested attorney fees on appeal. Costs on appeal were awarded to the Commission.