

## **SUMMARY STATEMENT**

*Sharon R. Hammer v. Nils Ribi*, Docket No. 44447

In an appeal from the district court in Blaine County, the Supreme Court vacated a judgment from the district court dismissing a claim for civil assault and remanded for further proceedings.

Sharon Hammer brought this action against Nils Ribi seeking damages for an alleged civil assault which took place during a break in a city council meeting in 2011. At the time of the alleged assault, Hammer was working as a city administrator for Sun Valley and Ribi was serving on the city council.

The district court dismissed Hammer's amended complaint based on a finding that Ribi was entitled to immunity under the Idaho Tort Claims Act and that Hammer had failed to properly plead facts that would show Ribi was not entitled to immunity. Hammer appealed this ruling and an order denying her motion to compel Ribi to undergo a mental health examination.

The Supreme Court vacated the district court's judgment dismissing the case, finding that Hammer pleaded sufficient facts that, when taken as true, showed that Ribi acted outside the scope of his employment and with malice and was therefore not entitled to immunity under the Idaho Tort Claims Act. The Supreme Court found no error in the order denying Hammer's motion to compel Ribi to submit to a mental examination. The Supreme Court found that the district court had not abused its discretion when it ruled that Ribi's mental health was not in controversy in this case. The Supreme Court also provided guidance to the district court on remand regarding the elements of a claim of civil assault, holding that Idaho Civil Jury Instruction 4.30 provides an accurate statement of law.

Given the mixed result of the appeal, the Supreme Court did not award attorney fees or costs to either party.