

## SUMMARY STATEMENT

*Patricia J. Thompson v. Ronald L. Thompson*

Docket No. 44522

Patricia J. Thompson and Ronald L. Thompson stipulated to the entry of judgment in a divorce action. In the decree of divorce, entered a month later, Patricia was awarded a term life insurance policy on Ronald's life. The policy lapsed due to nonpayment thirty-six days after judgment was entered. Over a year later, Patricia filed a complaint asserting she had a valid claim for relief claiming Ronald breached his fiduciary duty and/or the duty of good faith and fair dealing by failing to forward Patricia any notices regarding the life insurance policy. Patricia also sought to modify the judgment under Idaho Rule of Civil Procedure 60(b)(5). Ronald filed a motion to dismiss, which the magistrate granted. Patricia timely appealed to the district court, which affirmed the magistrate's grant of Ronald's motion to dismiss.

Patricia further appealed. The Court of Appeals held that Patricia was not entitled to equitable relief. While married persons owe each other a marital fiduciary duty, any such duty ends upon the marriage's termination. Since the policy lapsed thirty-six days after the marriage terminated, Ronald did not owe any fiduciary duty to Patricia at the time of the policy's lapse. Additionally, because Patricia took legal control of the life insurance policy upon entry of judgment, no provision in the divorce decree required or implied a duty on Ronald's part to forward notices regarding the life insurance policy after the entry of the judgment.

Further, Idaho Rule of Civil Procedure 60(b)(5) permits a judge to modify a judgment when the judgment is prospective and it is no longer equitable as written. The rule has limited application and will apply to a divorce decree in which the judgment requires prospective actions to be taken prior to the division of the property. The judgment here was not prospective in nature.