

BOISE, MONDAY, FEBRUARY 25, 2019 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

BRANDON ELLER,)
)
 Plaintiff-Respondent,)
)
 v.)
)
 IDAHO STATE POLICE, an executive)
 agency of the State of Idaho,)
)
 Defendant-Appellant.)

BRANDON ELLER,)
)
 Plaintiff-Appellant,)
)
 v.)
)
 IDAHO STATE POLICE, an executive)
 agency of the State of Idaho,)
)
 Defendant-Respondent.)

Docket Nos. 45698 & 45699

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Nancy Baskin, District Judge.

Brassey & Crawford, PLLC, Boise, for appellant.

Strindberg & Scholnick, LLC, Boise, for respondent.

This appeal arises from a retaliation action under the Idaho Protection of Public Employees Act and a negligent infliction of emotional distress claim against the Idaho State Police. Plaintiff Brandon Eller alleges ISP retaliated against him after he testified against another officer in a preliminary hearing, and voiced objections to a new ISP policy requiring members of the Crash Reconstruction Unit to destroy draft and peer review reports. A jury awarded Eller \$30,528.97 in economic damages under the Idaho Protection of Public Employees Act and \$1.5 million in non-economic damages for his negligent infliction of emotional distress claim. The

district court then entered a memorandum decision and order reducing the award for Eller's negligent infliction of emotional distress claim to \$1,000,000 because Idaho Code section 6-926 caps the State's liability for actions brought under the Idaho Tort Claims Act at \$500,000 per occurrence. Both Eller and ISP timely appealed on multiple grounds, and their appeals have been consolidated.