

## SUMMARY STATEMENT

*Parkinson v. Bevis*, Docket No. 46269

Rebecca Parkinson appealed a district court's dismissal of her claim for breach of fiduciary duty against her attorney, James Bevis. Parkinson filed a complaint alleging Bevis breached his fiduciary duty when he disclosed a confidential email to the opposing attorney after a settlement had been reached in Parkinson's divorce action. Bevis filed a motion to dismiss under I.R.C.P. 12(b)(6), arguing that Parkinson's complaint failed to state a claim for relief. The district court dismissed Parkinson's claim after finding it was, in essence, a legal malpractice claim, which Parkinson could not prevail on because she suffered no damages as a result of the disclosure. Parkinson filed a motion to amend her complaint to clarify that the remedy she sought was the equitable relief of fee disgorgement, which the district court denied.

The Idaho Supreme Court reversed and remanded, recognizing that a lawyer can violate his fiduciary duty, causing no damage, in which case an equitable remedy like Parkinson sought may be recoverable. The Court held that Parkinson could sue her attorney for breach of a fiduciary duty arising out of the attorney-client relationship, just as any other principal may sue an agent who owes a fiduciary duty. The Court explained that its holding was narrow, and offered relief to a client only in those cases in which the client seeks fee disgorgement as a solitary remedy. For these reasons the Court held that the district court also abused its discretion when it denied Parkinson's motion to amend.