

SUMMARY STATEMENT

Fell v. Fat Smitty's, Docket No. 46993

This case arises from a stabbing that took place outside of an Idaho Falls bar. Steven and Audra Fell were patrons of the First Street Saloon, which is owned and operated by Fat Smitty's. Towards the end of the evening, an altercation took place that resulted in Steven Fell being stabbed by another patron. The Fells filed a complaint against Fat Smitty's, alleging Fat Smitty's breached its duty to (1) warn the Fells, as invitees, of any hidden or concealed dangers in the bar, (2) keep the bar in a reasonably safe condition, and (3) protect the Fells from reasonably foreseeable injury at the hands of other patrons at the bar. The district court granted summary judgment in favor of Fat Smitty's, ruling that the Fells' claims were barred by Idaho's Dram Shop Act (I.C. § 23-808) because they failed to give Fat Smitty's timely notice of their intent to file a claim against them. The Fells appealed.

On appeal, the Fells argued that the Idaho Dram Shop Act did not apply in this case because the furnishing of alcoholic beverages to an intoxicated person—the essential characteristic of a claim under the Act—was not *alleged* to be a proximate cause. The Court held that if the facts demonstrate that the Dram Shop Act applies, then the injured person must comply with the remainder of the Act, including its notice provision. Accordingly, the Court affirmed the district court's grant of summary judgment in favor of Fat Smitty's because the Dram Shop Act applied since alcohol and the service of alcohol was undeniably a factor, thereby requiring the Fells to notify Fat Smitty's of their intent to file a claim against them within 180-days of the incident, which they failed to do.