

## SUMMARY STATEMENT

*Elsaesser v. Gibson*

Case No. 47687

*Elsaesser v. Smith*

Case No. 47884

*Elsaesser v. Law Office of Vernon K. Smith*

Case No. 48132

In a consolidated appeal arising out of Ada County, the Idaho Supreme Court affirmed three separate orders and judgments ejecting, non-beneficiaries, David R. Gibson, Vernon K. Smith, III, and the Law Office of Vernon K. Smith (collectively “Appellants”) from real properties owned by the Estate of Victoria H. Smith.

The personal representative of Victoria’s estate brought three actions, one against each of the Appellants, after they refused to vacate three separately occupied parcels of real property owned by the estate. In each action, the district court granted partial judgment on the pleadings in favor of the personal representative with respect to his claims for ejectment, reasoning that an estate’s personal representative can maintain an ejectment action against a party in possession of estate property because he has the same power over such property as would be enjoyed by an absolute owner.

On appeal, the Appellants argued that the district courts erred in granting partial judgment on the pleadings with respect to the ejectment claims because the Uniform Probate Code vests ownership of estate property in the estate’s beneficiaries, not the personal representative. Reasoning that the plain language of the Uniform Probate Code vested sufficient power over estate property in an estate’s personal representative to maintain an ejectment action against non-beneficiaries, the Idaho Supreme Court concluded that the district courts did not err in granting partial judgment on the pleadings. Accordingly, the Court affirmed each of the district courts’ judgments ejecting the Appellants from the estate owned properties.

\*\*\*This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.\*\*\*