

**SUMMARY STATEMENT**  
*Fulfer v. Sorrento Lactalis, Inc.*  
Docket No. 48853

Robert Fulfer, a truck driver making a milk delivery, was seriously injured when he stepped down into a nine-inch-deep pothole. He was working for a company contracted as a transportation and cargo-hauling provider by Sorrento Lactalis, Inc. (“SLI”), which provided a designated on-site parking area for drivers like Fulfer to pick up and drop off their loads. Fulfer filed a personal injury action against SLI seeking damages based on premises liability and negligence. SLI moved to dismiss pursuant to Idaho Rules of Civil Procedure 12(b)(6) and 12(c), arguing that it was immune from a tort action because it was a statutory employer of Fulfer, meaning that Idaho’s Workers’ Compensation laws provided Fulfer’s exclusive remedy.

The Idaho Supreme Court reversed and remanded the district court’s decision to dismiss Fulfer’s complaint. The Court concluded that because Fulfer’s complaint was dismissed based on an unpled affirmative defense, the district court erred in dismissing Fulfer’s case pursuant to Idaho Rule of Civil Procedure 12(b)(6). The Court further held that “the exception to the exclusive remedy rule found in section 72-209(3) applies equally to direct employers and statutory employers.”

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