

SUMMARY STATEMENT

Schrivner v. Raptosh

Docket No. 49818

This case addressed the damages available for the death of a pet resulting from alleged veterinary malpractice and the treatment of the pet's body post-mortem. Andrea and Kyle Schriver sought to recover damages for the emotional distress they endured after their cat died following a veterinary procedure and its body was subjected to a necropsy, allegedly performed against their express directions. The district court granted partial summary judgment in favor of Dr. Raptosh and Lakeshore Animal Hospital, LLC (collectively, "Dr. Raptosh and Lakeshore"), on the Schrivners' intentional infliction of emotional distress (IIED) and negligent infliction of emotional distress (NIED) claims, thereby effectively denying the Schrivners recovery of damages for emotional distress related to both the death of their cat as well as the treatment of its body post-mortem. However, the district court also determined that the measure of damages for the loss of the pet, which had no fair market value, is the value to the owner.

The Idaho Supreme Court affirmed the district court's decision in part and reversed it in part. The Court explained that pets, like livestock, are personal property and upheld the long-standing rule of law that when a pet has no fair market value at the time of its death, the proper measure of damages is the pet's actual, economic value to the owner, including the monetary value assigned to the pet's pedigree, habits, traits, and reputation. The Court emphasized that the pet's valuation does not include the sentimental value attached to the pet's companionship. Accordingly, the Court affirmed the district court's decision to apply a value to owner measure of damages.

The Court also affirmed the district court's denial of recovery of emotional distress damages as part of a claim for trespass to chattels/conversion. The Court adopted the Idaho Court of Appeals' conclusion in *Gill v. Brown*, 107 Idaho 1137, 1138-39, 695 P.2d 1276, 1277-78 (Ct. App. 1985), that emotional distress damages for loss of personal property must be pursued as part of an NIED or IIED claim. The Court joined the majority of jurisdictions in declining to impose a duty of care to avoid harm to owners on a veterinarian and held that a veterinarian's duty of care is owed to the pet. Accordingly, the Court affirmed the district court's dismissal of the Schrivners' NIED claim. However, the Court reversed and remanded the district court's dismissal of the IIED claim, holding that whether the necropsy constituted extreme and outrageous conduct sufficient to constitute intentional infliction of emotional distress is a question of fact that must be decided by a jury.

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