

## SUMMARY STATEMENT

*Insure Idaho v. Horn*

Docket No. 49936

This case concerns a non-solicitation agreement and the legal proceedings that were instituted to enforce it. Claudia Horn worked for her employer, Insure Idaho, LLC, for over six years. During her employment, she signed a non-solicitation agreement (the “Non-Solicitation Agreement”), which prohibited her from directly or indirectly soliciting Insure Idaho customers for the benefit of herself or another company. Horn later left Insure Idaho to work for a competitor, Henry Insurance Agency, LLC. After she left, several Insure Idaho customers opted to follow Horn with their business. Insure Idaho sought a preliminary injunction enjoining Horn and Henry Insurance from soliciting its customers, which the district court granted. After another former Insure Idaho customer moved its business to Henry Insurance, the district court found Horn, but not Henry Insurance, in contempt of court for violating the preliminary injunction. After Horn appealed the judgment of contempt, Henry Insurance and Insure Idaho cross-appealed.

On appeal, the Idaho Supreme Court reversed the district court’s order of contempt against Horn and vacated the preliminary injunction. The Supreme Court determined that the district court erred in conducting the contempt proceeding because it admittedly had no “ability to impose any sanction” on Horn. The Supreme Court further held that the district court failed to apply the correct meaning of the word “solicitation” in determining that Horn solicited clients in violation of the preliminary injunction. The Supreme Court explained that solicitation requires “*affirmative* action that entreats, implores, pleads or petitions for the business at issue.” It clarified that “the mere acceptance of business, without more, does not fall within the plain meaning of solicitation; nor can a court infer solicitation from the simple communication between parties alone.”

The Supreme Court also concluded that the district court failed to employ the correct legal standard for granting a preliminary injunction when it failed to address both prongs of the conjunctive preliminary injunction standard: (1) “a substantial likelihood of success on the merits” and (2) “irreparable harm if the injunction” is not granted. I.R.C.P. 65(e)(1)–(2). Here, the district court only concluded that the Non-Solicitation Agreement was enforceable; it did not determine whether it had been breached. The Court explained: “[t]o find that Insure Idaho had demonstrated likelihood of success on the merits, the district court needed to determine whether Insure Idaho was likely to succeed on *each* element of at least one claim against the party being enjoined.”

Finally, the Supreme Court held that both Horn and Henry Insurance were entitled to an award of attorney fees for the contempt trial below, and were also entitled to attorney fees on appeal.

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