

## SUMMARY STATEMENT

*Hickman v. Boomers, LLC*

Docket No. 50543-2023

The Idaho Supreme Court reversed the district court's orders dismissing Samuel Hickman's claims against Boomers, LLC, Michael Landon, and Colter James Johnson. This case concerns the "willful or unprovoked physical aggression" exception to the exclusive remedy rule of Idaho's Worker's Compensation Law. On April 29, 2019, Samuel Hickman was electrocuted when a boom crane contacted overhead power lines. Samuel Hickman and his wife brought a personal injury suit against the owner of the boom crane, Boomers, LLC, its owner Michael Landon, and Colter James Johnson, the Boomers employee who was operating the boom crane at the time of the accident (collectively, "Boomers").

Boomers moved for summary judgment, arguing that they were immune from tort liability under Idaho's Worker's Compensation Law. Hickman responded that the accident fell within the "willful or unprovoked physical aggression" exception contained in Idaho Code section 72-209(3). In *Gomez v. Crookham Co.*, 166 Idaho 249, 457 P.3d 901 (2020), the Court interpreted the "willful or unprovoked physical aggression" exception to include instances when an employer "consciously disregarded knowledge that an injury would result" to an employee. Boomers argued that *Gomez* did not articulate the correct standard because the statute was later amended in response to the *Gomez* decision. Applying the amended version of the statute, the district court granted Boomers' motion for summary judgment, concluding that the evidence presented did not fit within the willful or unprovoked physical aggression exception.

Hickman filed a motion for reconsideration along with new evidence, which Hickman argued created a genuine issue of material fact as to whether Johnson consciously disregarded knowledge that Hickman would be injured by Johnson's actions. Hickman also argued that the district court erred by applying the wrong version of the statute because the statute was amended after Hickman's accident. The district court considered Hickman's new evidence, but ultimately denied his motion for reconsideration. The district court held that Hickman failed to establish a genuine issue of material fact, regardless of which version of section 72-209(3) it applied.

On appeal, Hickman argued that the district court erred in granting summary judgment and denying his motion for reconsideration because it failed to apply the proper statute and his evidence established a genuine issue of material fact concerning the applicability of the exception contained in section 72-209(3). Boomers responded that the district court erred in considering the additional evidence presented by Hickman in his motion for reconsideration, but that the district court was otherwise correct.

The Idaho Supreme Court reversed the district court's order denying reconsideration. The Court held the district court erred in applying the 2020 amended version of section 72-209(3) instead of the pre-amendment version in effect at the time of Hickman's accident. Applying its decision in *Gomez*, the Court held that the district court did not err in initially granting summary judgment because Hickman failed to establish a genuine issue of material fact under the pre-amendment version of the statute. However, it held that the district court erred in denying Hickman's motion to reconsider. While the district court did not err in considering the additional

evidence that Hickman submitted in support of his motion for reconsideration, the district court erred when it concluded that the additional evidence did not create a genuine issue of material fact concerning the applicability of the exception contained in section 72-209(3).

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