

SUMMARY STATEMENT

Heath v. Denny's Wrecker Service, Inc.

Docket No. 50549

This appeal stems from a dispute between neighbors over parking. Tony Wayne Heath and Melissa Lish were next door neighbors in Chubbuck, Idaho. Lish hired Denny's Wrecker Service ("Denny's") to tow two of Heath's cars that she claimed were parked on her property. Denny's towed the cars. Heath sued both Denny's and Lish for civil trespass and conversion when Denny's refused to return Heath's cars unless Heath paid the towing and storage fees. Lish also filed a counterclaim that is not the subject of this appeal.

Denny's and Lish moved for summary judgment on Heath's claims. Heath opposed their motions for summary judgment and filed his own motion for summary judgment. The magistrate court granted summary judgment in favor of Denny's and Lish and dismissed Heath's trespass and conversion claims. It determined that Denny's reasonably relied on Lish's representations that Heath's cars were parked on her property and Denny's conduct in towing Heath's cars was lawful under Idaho Code section 49-1806(1). The magistrate court also determined that Heath had failed to show that Denny's trespassed on his property, and to the extent that there was a trespass, Denny's fell within an exception to trespass because they were acting within the scope of their employment. The magistrate court determined that Lish had established that Heath's cars were on her property under the doctrine of boundary by agreement, and as a result her decision to have Heath's tows cars was lawful. The magistrate court awarded attorney fees to Denny's.

Heath timely appealed to the district court, which upheld the magistrate court's summary judgment decisions, but reduced the amount of attorney fees awarded to Denny's. Heath appealed to the Idaho Supreme Court and Denny's cross appealed the district court's decision to reduce the attorney fee award. All parties sought attorney fees on appeal.

The Idaho Supreme Court affirmed the grant of summary judgment in favor of Denny's on the basis that Denny's reasonably relied on Lish's representations when it towed Heath's cars, and as a result Heath could not establish that Denny's wrongfully gained dominion over the cars or that Denny's trespassed on his property. The Idaho Supreme Court reversed the district court's decision to reduce the amount of attorney fees the magistrate court awarded to Denny's because the magistrate court's order showed it considered the Idaho Rule of Civil Procedure 54(e)(3) factors as part of its decision. The Idaho Supreme Court vacated the grant of summary judgment in favor of Lish because genuine issues of material fact related to Lish's defense of boundary by agreement made summary judgment improper. No parties were awarded attorney fees on appeal.

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