

## SUMMARY STATEMENT

*Camp Magical Moments, Cancer Camp for Kids, Inc. v. Walsh, Docket No. 51061*

Camp Magical Moments (“CMM”) appealed after a district court reduced the amount of damages it had been awarded and refused to award attorney fees. Tom and Ann Walsh (“the Walshes”) cross-appealed. They argued that the district court made several errors, including rejecting their defenses and finding that Ann Walsh breached her fiduciary duty.

CMM argued that the district court wrongly reduced the damages award based on contributory negligence because CMM did not bring a negligence claim. CMM also argued that it should not have been required to mitigate damages before it even knew the damages existed. Finally, CMM argued that the district court should have awarded prejudgment interest because the amount of damages could be calculated.

The Walshes argued that the district court should not have awarded damages because their defenses applied, including a superseding intervening cause defense and an unclean hands defense. They also argued that Ann Walsh did not breach a fiduciary duty because she was selling her own property. In addition, the Walshes claimed that CMM could not seek more damages on appeal because CMM had already been paid and had registered the judgment as final in North Carolina.

The Idaho Supreme Court affirmed part of the district court’s decision, vacated part of it, and sent the case back for further proceedings. The Court held that CMM’s appeal was not barred because CMM was not seeking inconsistent relief. The Court also ruled that the district court erred by reducing the damages award based on contributory negligence because the case was not based on a negligence claim. The Court further held that CMM had no duty to mitigate damages before it knew about them.

The Court also rejected the Walshes’ superseding intervening cause defense because that defense applies only to negligence claims, and CMM did not bring such a claim. The Court further held that the Walshes did not show the district court abused its discretion by rejecting their unclean hands defense. The Court affirmed the finding that Ann Walsh breached her fiduciary duty because that finding was supported by substantial evidence.

The Court also held that the district court did not abuse its discretion by refusing to award prejudgment interest. The Court declined to award attorney fees on appeal but awarded costs to CMM.

The case was returned to the district court with instructions to enter judgment for the full amount of damages and to reconsider whether CMM is entitled to attorney fees for bringing the action.

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