

SUMMARY STATEMENT
Dawn A. Maciosek v. Victor G. Dow
Docket No. 52466

Dawn A. Maciosek appeals from the district court's amended judgment ordering Maciosek and Victor G. Dow to partition real property by sale and share the proceeds. Maciosek and Dow, an unmarried couple, purchased a home together. At closing, Maciosek and Dow both completed and signed loan application documents and executed a deed of trust and promissory note in the amount of \$142,929, with \$20,670 of the loan proceeds held by Evergreen Home Loans (Evergreen) to cover costs of required repairs to the property. Maciosek and Dow received closing cost assistance in the amounts of \$1,415 and \$2,000 from the Idaho Housing and Finance Association (IHFA). Maciosek and Dow are listed as co-signers on the loan and are both listed on the quitclaim deed, deed of trust, borrower's settlement statement, gift commitment letter, and closing cost assistance statement from IHFA as purchasers of the property. The loan documents indicate that Maciosek and Dow purchased the home as tenants in common.

When the romantic relationship ended, Dow eventually moved out of the property. Maciosek moved the district court to partition the property. Initially, Maciosek asserted she solely owned the property, but later alleged she had a fifty-five percent interest in the property and Dow had a forty-five percent interest. Following a bench trial, the district court held Maciosek and Dow each owned a fifty percent interest in the property, Dow was not required to pay his share of the monthly mortgage after Maciosek ousted him from the property, and Maciosek was not entitled to prejudgment interest on the amount of the monthly mortgage payments Dow did not pay prior to his ouster. Maciosek appealed.

On appeal, Maciosek challenged each of the district court's conclusions on the above issues. The Idaho Court of Appeals held the district court properly followed the framework set forth in *Demoney-Hendrickson v. Larsen*, 171 Idaho 917, 527 P.3d 520 (2023), in determining the interest held by Maciosek and Dow in the property. As to the ouster argument, Maciosek waived her argument on appeal by failing to provide authority to support her argument that she did not oust Dow. Alternatively, the Court held the district court's decision was supported by substantial and competent evidence. Finally, the Court affirmed the district court's reasoning that Maciosek's damages were unascertainable until the district court rendered its decision regarding the parties' property interest and calculated Maciosek's damages. Prejudgment interest could not be assessed

until that calculation was complete. Therefore, the district court did not abuse its discretion when it denied Maciosek's motion to alter or amend the judgment for prejudgment interest against Dow. Finally, the Court awarded Dow attorney fees and costs 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.