

BOISE, MONDAY, JANUARY 14, 2019 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**DICKINSON FROZEN FOODS, INC., an)
Idaho corporation,)**

Plaintiff-Appellant,)

v.)

**J.R. SIMPLOT COMPANY, a Nevada)
corporation; THOMPSON COBURN, LLP,)
a Missouri limited liability partnership;)
YARMUTH WILSDON, PLLC, a)
Washington professional limited liability)
company; and MARK MC KELLAR, an)
individual,)**

Docket No. 45580

Defendants-Respondents,)

and)

**JOHN DOE I-X, unknown individuals and)
entitites,)**

Defendants.)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Lynn G. Norton, District Judge.

Trout Law, PLLC, Boise, for appellant.

Gjording Fouser, Boise, for respondent J.R. Simplot Company and Mark McKeller.

Hepworth Holzer, Boise, for respondent Thompson Coburn, LLP and Wilsdon Yarmuth, PLLC.

This action arises out of Ada County and involves statements made in a complaint that was filed in Washington Federal District Court (the Washington litigation). In December 2016, the J.R. Simplot Company (Simplot) commenced the Washington litigation by filing suit related

to the dissolution of a business relationship between Simplot and two entities Simplot co-owned with Frank Tiegs. Dickinson Frozen Foods (DFF), also owned by Tiegs, was not named as a party in the Washington litigation; however, the complaint contained allegedly defamatory statements about DFF. In March 2017, DFF filed suit in Ada County district court alleging defamation per se against Simplot and its Food Group President Mark McKellar (collectively, Simplot), as well as the two law firms who represented Simplot in the Washington litigation—Yarmuth Wilsdon, PLLC (Yarmuth) and Thompson Coburn, LLP (Thompson). DFF also alleged breach of contract against Simplot, claiming Simplot had breached a non-disclosure agreement. The district court dismissed DFF’s claims for defamation per se against all defendants, determining the statements were protected by litigation privilege. Later, the district court granted Simplot’s motion for summary judgment on DFF’s breach of contract claim. Subsequently, a final judgment was entered dismissing all causes of action in DFF’s complaint. DFF timely appeals.