

BOISE, MONDAY, JANUARY 14, 2019 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

DAVID A. KOSMANN,)	
)	
Plaintiff-Appellant,)	
)	
v.)	Docket No. 45779
)	
LEO GILBRIDE,)	
)	
Defendant.)	
)	
_____)	
DAVID A. KOSMANN,)	
)	
Plaintiff-Appellant,)	
)	
v.)	
)	
KEVIN DINIUS, an individual; DINIUS &)	
ASSOCIATES, PLLC, an Idaho professional)	
limited liability company,)	
)	
Defendants-Respondents.)	
_____)	

Appeal from the District Court of the Third Judicial District, State of Idaho, Canyon County. Hon. Gene A. Petty, District Judge.

Messerly Law, PLLC, Boise, for appellant.

Anderson, Julian & Hull, LLP, Boise, for respondents.

David Kosmann appeals from a judgment of the Canyon County district court. On appeal, he argues that the district court erred in enforcing a settlement agreement between Kosmann and Kevin Dinius and Dinius & Associates, PLLC (collectively “Dinius”), awarding attorney fees to Dinius as a sanction against Kosmann and his attorney, Loren Messerly, declining to impose sanctions against Dinius and his attorney, Yvonne Dunbar, and striking an untimely filed memorandum and declaration. He also requests attorney fees on appeal pursuant to the settlement agreement, Idaho Code section 12-121, and as sanctions against Dinius for an alleged violation of rule 4.2 of the Idaho Rules of Professional Conduct (Rule 4.2). Dinius argues that the Court should disregard Kosmann’s appeal to the extent that he did not raise issues below or did not timely raise them below, conceded issues below, and did not support issues on appeal with cogent argument or authority. Dinius also argues that the district court properly declined to sanction him and Dunbar, that it properly sanctioned Kosmann and Messerly, that he did not violate Rule 4.2, that the settlement agreement is enforceable, and that Kosmann is not entitled to attorney fees on appeal.