

BOISE, AUGUST 3, 2021, AT 10:30 A.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 48455

**TODD ALLEN TULLETT and TODD)
TULLETT, LLC, an Oregon limited)
liability company,)
)
Plaintiff-Counterdefendants)
Respondents,)
)
v.)
)
BRIAN PEARCE and SUSAN PEARCE,)
husband and wife; PORTER PEARCE)
and AURORA PEARCE, husband and)
wife,)
)
Defendants-Counterclaimants-)
Appellants.)
)**

Appeal from the District Court of the Third Judicial District, State of Idaho, Payette County. Hon. Susan E. Wiebe, District Judge.

Taggart Olsen PLLC; Nathan M. Olsen, Esq., Idaho Falls, for defendant-appellant.

Intermountain Law, PC; David R. Auxier, Esq, Fruitland, for plaintiffs-respondents.

Respondents, Todd Tullett and Tullett, LLC, filed a complaint against Appellants, Brian, Susan, Porter, and Aurora Pearce alleging breach of contract, negligence, and unfair trade practices in relation to the boarding, injury, and subsequent death of a horse. The Pearces filed an answer to the complaint; Brian and Susan Pearce filed a counterclaim against Todd Tullett for trespass; Aurora Pearce filed a counterclaim against Todd Tullett for emotional distress; and a counterclaim for general tort was also filed against Todd Tullett. Following cross-motions for summary judgment and a jury trial, all claims and counterclaims were dismissed. Appellants and Respondents filed respective motions for attorney fees and costs. The district court found that neither party was a prevailing party and, thus, denied the motions.

Appellants argue the district court erred when it failed to distinguish the results achieved by each of the respective parties and found that none of the Pearces were prevailing parties. Appellants assert that each member of the Pearce family was a prevailing party against one of the

Respondents. Respondents assert that the Pearces are not prevailing parties because they did not successfully prosecute their counterclaims.