

## **SUMMARY STATEMENT**

*Newton v. MJK/BJK, LLC, MBK Lake, LLC, KAKM, LLC, & the Idaho Department of Lands*  
Docket No. 46334

This case concerns a dispute over the construction of a two-story boat garage on Lake Coeur d'Alene. The Newtons' property overlooks the location of the Kenworthys' boat garage. The Kenworthys began construction of the structure in 2015. The new structure was much larger than the original boat garage and now has a second floor. The Newtons objected to the size of the new structure, and sued the Idaho Department of Lands (IDL) and the Kenworthys' related family entities (the LLC Respondents), asserting claims of public and private nuisance and requesting injunctive relief to mandate the removal of the structure. The district court entered summary judgment for IDL and the LLC Respondents.

The Idaho Supreme Court affirmed the district court. The Newtons failed to timely appeal IDL's decision issuing the Kenworthys a permit to construct the new boat garage, and as such, the Newtons were not eligible for judicial review of IDL's permitting decision. The Newtons' claims for injunctive relief were based on the Lake Protection Act (LPA), the Public Trust Doctrine (PTD), and the Fourteenth Amendment Due Process Clause. The Court held that the LPA and PTD do not provide private litigants with independent enforcement rights. Further, the Court held that the Newtons failed to demonstrate a protected property interest to sustain a procedural due process claim. Thus, the Court held that the Newtons' claims for injunctive relief were impermissible collateral attacks on final agency action. Additionally, the Court held that the Newtons' public and private nuisance claims failed as a matter of law.