

## SUMMARY STATEMENT

*Kalb v. Wise*, Docket No. 47057

The Idaho Supreme Court reversed a district court's holding that attorney Craig Wise breached a duty of care owed to Billy Kyser, Jr., as a beneficiary of Carolyn Kyser's will. Wise represented Billy's mother, Carolyn, in divorce proceedings from Bill Kyser, Sr., and in preparing a will that bequeathed her entire estate in equal shares to Billy and his brother Brent Kyser. As part of the divorce proceedings, and before Carolyn's will was completed, Carolyn and Bill Sr. executed a property settlement agreement in which Bill Sr. and Carolyn agreed to retain sequential life estates in the family home, with the remainder going to Brent and Billy as tenants in common upon the death of the last surviving parent. Wise prepared a deed memorializing the terms of the property settlement agreement.

After Bill Sr. and Carolyn both passed away, Brent retained Wise to represent him as the personal representative of Carolyn's estate. Brent also hired Wise independently to prepare a quitclaim deed transferring Billy's interest in the home to Brent. Wise sent the deed to Billy, who then executed it. David Kalb, Billy's court-appointed conservator, then filed a malpractice suit against Wise. After a court trial, the district court held Wise breached the duty he owed to Billy as a beneficiary of Carolyn's will by preparing the deed because it frustrated Carolyn's testamentary intent that her estate be divided equally between her two sons. The Idaho Supreme Court reversed, holding that although Wise owed Billy a duty of care in drafting and executing Carolyn's will, the district court impermissibly extended that duty by requiring that Wise ensure an asset outside the probate estate complied with Carolyn's intent in her will.

\*\*\*This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.\*\*\*