

SUMMARY STATEMENT

Merrill v. Smith
Docket No. 47511

This case arose from a fee dispute between two attorneys arising from a purported fee-sharing agreement. The underlying case involved an airman in the U.S. Air Force who was injured while driving through Idaho on his way to a posting in Alaska. The airman hired an Alaska attorney, Stephen Merrill, to represent him in pursuit of his personal-injury claims in Idaho. Merrill associated Erik Smith, an Idaho attorney, to act as local counsel in the airman's suits. At a point in the proceedings, the airman terminated Merrill's representation. Smith ultimately settled the case and retained the entire attorney fee. Merrill then sued Smith seeking his proportionate share of the fee. Smith moved for summary judgment which was granted by the district court, and Merrill appealed.

On appeal, the Idaho Supreme Court held that the district court improperly shifted the burden to Merrill at summary judgment even though Smith failed to meet his burden of proof to establish the absence of a genuine issue of material fact. The Court reversed the district court's order granting summary judgment and vacated the judgment, remanding the case for further proceedings.

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