

SUMMARY STATEMENT

Sankey v. Ivey
Docket No. 49592

This appeal addressed the business records exception to the hearsay rule and the admissibility of non-owner testimony concerning the location of a real property boundary line. It also addressed whether, pursuant to Idaho Code section 6-320(a)(3), a subtenant can maintain an action for damages against the lessors of property where there is no contractual relationship between the subtenant and the lessors.

A large, dead tree near a mobile home rented by the Sankeys fell and damaged the Sankeys' vehicles and killed one of their cats. Proceeding *pro se*, the Sankeys filed a small claims action against the owner of the mobile home park where they lived and the owner and managers of their mobile home. They were unsuccessful in the small claims court action because they did not show who owned the property where the tree was located. They appealed to the magistrate court and then the district court. Both held that the documents the Sankeys presented to establish on whose property the tree was located were not admissible because they were hearsay and were not properly authenticated.

The Sankeys also brought suit against the owner and managers of their mobile home under Idaho Code section 6-320(a)(3), which allows a tenant to file suit against a landlord when the property is maintained in a hazardous manner. The magistrate court dismissed this claim because the Sankeys were subtenants rather than tenants of the owners and managers. The district court affirmed the magistrate court's dismissal.

The Idaho Supreme Court agreed with the district court. It determined that the documents were not admissible evidence under the business records exception to the rule against hearsay and were not supported by personal knowledge. Because they were not admissible, the Sankeys could not show who owned the property where the tree was located. Additionally, the Idaho Supreme Court interpreted the term "tenant" in Idaho Code section 6-320(a)(3) as not including subtenants. As such, the decision of the district court is affirmed.

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