

BOISE, MONDAY, DECEMBER 11, 2017 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

SCOTT DAVISON and ANNE DAVISON,)
)
 Plaintiffs-Appellants,)
)
 v.)
)
 DEBEST PLUMBING, INC., an Idaho)
 corporation,)
)
 Defendants-Respondents.)

Docket No. 44625

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Valley County. Hon. Jason D. Scott, District Judge.

Law Office of Vernon K. Smith, Boise, for appellants.

Cantrill, Skinner, Lewis, Casey & Sorensen, LLP, Boise, for respondents.

Scott and Anne Davison appeal an order from the district court in Valley County granting summary judgment in favor of DeBest Plumbing (DeBest) and dismissing their case. The Davisons initiated this action to recover damages that resulted from a leak in a bathtub that had been installed by DeBest as part of a more extensive remodel of the Davisons' vacation home in McCall. The Davisons contracted with Gould Custom Builders, Inc. (Gould) to perform a major remodel in 2012. As part of that remodel, Gould hired DeBest as a subcontractor to perform plumbing work. Work on the remodel was completed around June 15-17, 2013. No one was in the vacation home from the time the work was completed until July 25, 2013, when the Davisons came to McCall for their summer vacation. When the Davisons entered the house they noticed the leak and notified Gould. The next day Gould and a DeBest employee came to repair the leak and inspect the damage. DeBest promised to pay Gould to repair the damage after the Davisons returned home in the fall.

After the work was completed, DeBest and the Davisons could not come to an agreement on how much the repairs should cost. The Davisons then initiated this action. The Davisons sued DeBest for breach of the remodel contract between Gould and DeBest. The Davisons also sued under a theory of negligence. The district court granted a motion for summary judgment in favor of DeBest on the contractual claims finding that the Davisons and DeBest were not in privity of contract. The district court also granted summary judgment on the negligence claims based on a finding that the Davison's failed to comply with the Notice and Opportunity to Repair Act (NORA). The Davisons appeal, arguing that NORA is not applicable to this case. Alternatively, the Davisons argue that NORA abrogates the common law privity requirement for the contractual actions.