

## **SUMMARY STATEMENT**

*McCall v. Silva*, Docket No. 43548

In an appeal from the district court in Twin Falls County, the Supreme Court affirmed the district court's judgment that Max Silva was personally liable for the purchase of 116 dairy cows. In an action involving several parties, Jack McCall asserted six claims against Silva. Among those claims, McCall asserted Silva was personally liable for the purchase of 116 dairy cows. Silva argued that he was not personally liable because he had been acting as an agent for Silva Dairy, LLC when he purchased the cows. After a bench trial, the district court found McCall's testimony that he sold the cows to Silva personally and not as an agent of Silva Dairy to be credible.

Silva appealed, arguing that the district court misapplied agency law when it held he was personally liable to pay for the cows and that the district court erred when it failed to award him attorney fees for the claims upon which he had prevailed. The Supreme Court affirmed, holding that substantial competent evidence supported the district court's finding that Silva had personally contracted with McCall to purchase the cows. The Supreme Court also found that the district court did not abuse its discretion when it held that there was no prevailing party and therefore Silva was not entitled to attorney fees. The Supreme Court awarded McCall attorney fees and costs on appeal.