

## SUMMARY STATEMENT

*Stephen Boswell and Karena Boswell v. Amber Dawn Steele and the Estate of Mary Steele*  
Docket No. 44093

In an appeal from Bannock County, the Idaho Court of Appeals vacated the district court's judgment in favor of Amber Dawn Steele and the Estate of Mary Steele and remanded the case to the district court for further proceedings. Amber Steele's dog bit Stephen Boswell. The Boswells sued, but the district court granted summary judgment in favor of the Steeles. The Boswells appealed. The Court of Appeals vacated and remanded. On remand, the Boswells filed motions for partial summary judgment, arguing they were entitled to summary judgment on their common law strict liability and Pocatello Municipal Code statutory strict liability claims, and contending that the Steeles' defenses of comparative negligence should be stricken. The district court denied these motions, instructing the jury on negligence and comparative negligence, but not strict liability. The jury found in favor of the Steeles. The Boswells appealed once again, arguing that the district court erred by failing to instruct the jury on common law and statutory strict liability.

The Court of Appeals held that Idaho's liability for domestic animals cause of action has the same elements as what is considered by the Restatement (Third) of Torts as strict liability for abnormally dangerous animals, meaning that the Boswells' common law strict liability cause of action should have been presented to the jury. Furthermore, the Court reasoned that the history behind the enactment of Idaho's comparative negligence scheme and the subsequent enactment of the Idaho Products Liability Act suggested that the legislature intended for there to be a limited version of comparative negligence available in common law strict liability for abnormally dangerous animals claims. Moreover, the Court held that the Pocatello Municipal Code's dangerous animal cause of action is best characterized as a statutory strict liability cause of action. The Court noted that under this cause of action, the only available defense is that the plaintiff teased, tormented, abused, or provoked the animal.