

SUPREME COURT OF IDAHO

Withers v. Bogus Basin Recreational Association, Inc., 144 Idaho 78

156 P.3d 579 (2007) · No. No. 33098 · Decided April 3, 2007

SUMMARY

The Idaho Supreme Court affirmed summary judgment for Bogus Basin Recreational Association in a negligence action arising from a skier's fall after her ski became tangled in a rope near a chairlift unloading area. The court held that the rope configuration was intended to eliminate, alter, control, or lessen an inherent risk of skiing under Idaho's Ski Area Liability Act, and that the injury did not result from a violation of the statutory duties governing aerial passenger tramways. The court awarded costs on appeal but denied attorney fees.

CASE DETAILS

COURT	Supreme Court of Idaho
WRITING FOR THE COURT	Schroeder, Chief Justice; Trout, Justice; Eismann, Justice; Burdick, Justice; Jones, Justice
JURISDICTION	Idaho
DECIDED	April 3, 2007
DOCKET	No. 33098
DISPOSITION	affirmed
PROCEDURAL POSTURE	Withers appealed from the district court's grant of summary judgment to Bogus Basin in her negligence action arising from a skiing accident.
STANDARD OF REVIEW	The Supreme Court applies the same standard as the district court on summary judgment, exercises free review of whether a genuine issue of material fact exists and whether the prevailing party was entitled to judgment as a matter of law, and exercises free review over statutory interpretation.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Helga Withers v. Bogus Basin Recreational Association, Inc.

TOPICS

negligence

statutory interpretation

summary judgment

personal injury

standard of review

PRACTICE AREAS

torts

statutory interpretation

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the Ski Area Liability Act precluded liability for injuries caused by a rope configuration intended to route skiers and reduce the risk of skier collisions.
2. Whether Bogus Basin violated Idaho Code section 6-1104 by failing to stop the chairlift after the rope sagged and allegedly endangered disembarking passengers.
3. Whether Bogus Basin was entitled to attorney fees on appeal.

HOLDINGS

1. The Ski Area Liability Act precluded liability because the rope was erected to eliminate, alter, control, or lessen an inherent risk of skiing, and the Act imposes no duty to perform such risk-reduction activities to any standard of care.
2. Bogus Basin did not violate Idaho Code section 6-1104 because Withers's injuries resulted from the rope configuration rather than the construction, operation, maintenance, or repair of the chairlift.
3. Bogus Basin was not entitled to attorney fees on appeal because Withers's statutory-construction arguments were not frivolous, unreasonable, or without a foundation in law or fact.

KEY QUOTATIONS

“The common law standard of care with respect to non-skiing-related functions remains, but the operator is absolved of responsibility to protect skiers from the hazards of skiing except as enumerated in the statute.” (582)

“The duty not to negligently cause injury refers only to the failure to follow (1) any of the enumerated duties in I.C. §§ 6-1103 and 6-1104, or (2) any duty that does not relate to eliminating, altering, controlling or lessening the inherent risks of skiing.” (581)

FACTUAL BACKGROUND

Bogus Basin employees placed a rope from the end of the unloading ramp of the Superior chairlift to a garbage can 25 to 30 feet away to route disembarking passengers. After someone moved the garbage can, the rope sagged. Helga Withers and her daughter crossed the path of the rope after disembarking; Withers's ski became tangled in it, causing her to fall and suffer multiple injuries.

PROCEDURAL HISTORY

Withers alleged that she was injured when her ski became tangled in a rope placed near the unloading ramp of a chairlift. Bogus Basin moved for summary judgment, arguing that the Idaho Ski Area Liability Act, express assumption of risk, and a written release barred liability. The district court granted summary judgment, and the Idaho Supreme Court affirmed; it also denied Bogus Basin attorney fees on appeal while awarding costs.

DISPOSITION

affirmed

CASES CITED

- Carrier v. Lake Pend Oreille School District No. 84, 142 Idaho 804, 134 P.3d 655 (2006)
- Baxter v. Craney, 135 Idaho 166, 16 P.3d 263 (2000)
- Andersen v. Professional Escrow Services, Inc., 141 Idaho 743, 118 P.3d 75 (2005)
- Northcutt v. Sun Valley Co., 117 Idaho 351, 787 P.2d 1159 (1990)
- Davis v. Sun Valley Ski Education Foundation, 130 Idaho 400, 941 P.2d 1301 (1997)
- Long v. Bogus Basin Recreational Ass'n, 125 Idaho 230, 869 P.2d 230 (1994)

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