

Bond Case Briefs

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NEGLIGENCE - IDAHO

Yellowstone Log Homes, LLC v. City of Rigby

Supreme Court of Idaho - December 20, 2023 - P.3d - 2023 WL 8792973

Real property owner brought action against city for negligence and negligence per se for city's failure to mark lateral sewer line when marking utilities for construction company, which later bored through the lateral sewer line which city failed to mark, causing damage to the property.

The Seventh Judicial District Court granted city's motion for summary judgment, but denied city's motion for summary judgment. Property owner appealed, and city-cross-appealed.

The Supreme Court held that:

- Property owner had standing under the Idaho Underground Facilities Damage Prevention Act to bring negligence per se claim;
- Genuine issue of material fact as to whether city located the underground facilities with "reasonable accuracy" or used "the best information available" precluded summary judgment on negligence per se claim;
- Property owner was a member of the class of persons the Underground Facilities Damage Prevention Act was intended to protect;
- Genuine issue of material fact as to whether city's alleged violation of the Act was the proximate cause of property owner's damages precluded summary judgment on negligence per se claim;
- City had a common law duty to property owner to act as a reasonable manager of its property under the circumstances when marking underground facilities; and
- Genuine issue of material fact as to whether city breached a duty owed to property owner precluded summary judgment for city on claim it had discretionary function immunity.