

COEUR D’ALENE, WEDNESDAY SEPTEMBER 18, 2024, AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**SOUTH HILL MEAT LOCKERS)
INCORPORATED,)
)
Plaintiff-Appellant,)
)
v.)
)
IDAHO TRANSPORTATION DEPARTMENT,)
an executive department of the State of Idaho,)
)
Defendant-Respondent.)**

Docket No. 50906

Appeal from the District Court of the First Judicial District of the State of Idaho,
Boundary County. Lamont C. Berez, District Judge.

Sperry Law Office, PLLC, Boise for Appellant.

Raúl R. Labrador, Idaho Attorney General, Boise, for Respondent.

The Idaho Transportation Department first approved plans for improvements on Highway 95 between milepost 506.251 and milepost 507.565, in Bonners Ferry, Idaho in 2011. After final plans were completed and signed in 2018, the contract was awarded to Goodfellow Brothers. Part of the project required creating a temporary bypass road next to South Hill Meat Locker Inc.’s building. To lay the temporary bypass road, a natural gas line had to be relocated from the west to the east side of the highway. South Hill alleges that the excavation for the gas line and subsequent road construction caused damage to their building in the form of cracks in the foundation and walls and causing the building to tilt off plumb. South Hill sued ITD alleging seven causes of action including: tortious damage to property, negligence per se, strict liability, trespass, a due process violation, and taking of private property for public use without just compensation claim. ITD maintained they were immune from liability under Idaho Code section 6-904(7) which allows for “plan or design immunity” and filed a motion for summary judgment on that basis. On a motion for reconsideration under a new district court judge, the district court dismissed South Hill’s claims with prejudice. South Hill alleges three error were made below. First, South Hill contends that the district court erred when it reconsidered and granted ITD’s first motion for summary judgment. Second, South Hill challenges the district court’s grant on ITD’s second motion for summary judgment. Lastly, South Hill argues that the district court erred in granting ITD’s motion to bifurcate the trial so that it might present its immunity defense before South Hill presented its case-in-chief.