
IN THE SUPREME COURT OF THE STATE OF IDAHO

ERIC POSEY,

Plaintiff - Respondent

v.

Idaho Supreme Court Case No.
52072-2024

SUMMER BUSHNELL,

Defendant - Appellant.

APPELLANT'S BRIEF

Appeal from the First Judicial District for Kootenai County

Honorable Ross Pittman, District Judge, Presiding

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STATEMENT OF THE CASE AND FACTS

This is an appeal from a civil defamation judgment entered by the First Judicial District Court, Kootenai County, Hon. Ross Pittman presiding. Plaintiff-Respondent **Eric Posey** filed suit against Defendant-Appellant **Summer Bushnell** on September 26, 2022, alleging that certain online statements were defamatory.

Bushnell denied liability, demanded a jury trial, and moved for summary judgment. Posey filed a cross-motion for partial summary judgment. The court denied Bushnell's motion, granted in part and denied in part Posey's motion, and later granted Posey leave to amend to add a claim for punitive damages.

The matter proceeded to a five-day jury trial in May 2024. At trial, Posey alleged that Bushnell made defamatory statements suggesting that Posey had engaged in misconduct and that the defendant was responsible for the loss of plaintiff's employment. As the trial progressed the Plaintiff conceded that his job loss was not caused by Bushnell's statements but, according to his employer, due to misconduct on the job. Defendant denied making any false assertions of fact, testifying that her remarks were true and protected expressions of opinion.

The jury returned a general verdict for Plaintiff, and the court entered judgment on May 31, 2024. Bushnell timely appealed.

ISSUES PRESENTED ON APPEAL

1. Did the District Court err, in not requiring proof/evidence of loss of income or damages from the Plaintiff?
2. Did the District Court err in not having an expanded jury instruction on punitive damages?
3. Did the District Court err in ignoring the request put forth in the Second Amended Requested Jury Instructions and Verdict Form put forth by Bushnell's legal counsel?
4. Did the District Court err in the Verdict Form used by the jury?
5. Did the District Court err in allowing damages of any kind to be considered after the Plaintiff admitted during his testimony on the stand that the defendant was not the cause of the loss of income/job?
6. Did the District Court err in the application of I.C. §16-1604 regarding punitive damages?
7. Did the District Court err in failing to provide sufficient guidance in the jury instructions regarding damages awarded?
8. Did the District Court err in its enforcement of I.R.C.P. Rule 47(a)(c)(f)?
9. Did the District Court err in labeling Bushnell a "hostile witness" rather than an adverse witness?
10. Did the Court err when one Judge deemed Bushnell a media defendant and one judge did not deem Bushnell a media defendant?
11. Did the Court err in determining that Posey was not a "limited purpose public figure"?

ARGUMENTS

I. The District Court Erred in Not Requiring Proof of Loss or Evidence of Damages from Plaintiff Before Allowing Punitive Damages to be Considered

Whether a trial court erred in permitting punitive damages to be submitted to a jury without sufficient supporting evidence is a question of law reviewed **de novo**. The sufficiency of evidence supporting a punitive damages claim is reviewed for **substantial evidence**.

Under Idaho Code . §16-1604(2), a trial court may not submit punitive damages to a jury unless the moving party established a prima facie case for such damages. The Idaho Supreme Court, in [Davis Dahl v. Blast Properties, B&B Custom Homes, and Tyler Bosier; Docket No. 50491] (2024 opinion), clarified that:

“In any action seeking recover of punitive damages, the claimant must prove, by clear and convincing evidence, oppressive, fraudulent, malicious or outrageous conduct by the party against whom the claim for unitive damages is asserted.”

The court emphasized that the evidentiary showing must be clear and convincing, and that speculative or conclusory assertions cannot meet this standard. Proof of actual damages, casually connected to the defendant’s conduct, is a foundational prerequisite.

Plaintiff Posey failed to provide competent proof of any actual loss of income or other compensable damages caused by Defendant Bushnell’s alleged conduct. During trial, Posey **admitted on the stand** that he lost his job because he “called a customer a derogatory statement [a racial slur]” - not because of Bushnell’s alleged statements. (Tr., p. 350)

Despite this admission, the District Court permitted the jury to consider punitive damages without requiring Posey to present **documentary or testimonial proof** of any actual financial loss attributed to Bushnell. The defense moved for a **directed verdict** under I.R.C.P. 50(a) on this ground at the close of Plaintiff's case, "Memorandum in Support of Plaintiff's Motion for Partial Directed Verdict") which the court denied without addressing the absence of proof on compensatory damages.

This was contrary to the Idaho Supreme Court's holding in *Davis v. Blast*, Docket No. 50491, which makes clear that punitive damages cannot be considered without first establishing actual damages by competent evidence, and that the "evidence presented must be substantial. Punitive damages are not a stand-alone remedy in Idaho; they are parasitic to actual damages." Also see *Cuddy Mountain Concrete Inc V. Citadel Construction Inc.*, 121 Idaho 220, 824 P.2d 151 (Ct. App. 1992).

By allowing punitive damages to go to the jury without proof of compensatory damages caused by Bushnell, the District Court permitted a verdict based on **passion, prejudice, and speculation**, violating both statutory requirements and due process principles under the Idaho and U.S. Constitutions.

The Court should reverse the punitive damages award in its entirety because no legally sufficient evidence supported it. At minimum, the case should be remanded with instructions to vacate the punitive damages portion of the judgment.

II. The District Court Erred in Failing to Provide an Expanded Jury Instruction on Punitive Damages

Idaho Jury Instruction 9.20, implementing Idaho Code § 16-1604 and applicable case law, sets out that:

“Punitive damages are not a matter of right, but may be awarded in the jury’s sound discretion, which is to be exercised without passion or prejudice. The law provides no mathematical formula by which such damages are to be calculated, other than any award of punitive damages must bear a reasonable relation to the actual harm done, to the cause thereof, to the conduct of the defendant, and to the primary objective of deterrence.”

The statute and instruction require that the jury be informed that punitive damages must related proportionally to actual harm, and that deterrence - not punishment for its own sake - is the objective. The U.S. Constitution’s Eighth Amendment prohibition against excessive fines and cruel and unusual punishments also informs the limits of punitive awards.

Defense counsel requested an expanded version of IDJI 9.20 to emphasize:

- 1) The distinction between deterrence and punishment for its own sake,
- 2) The proportionality requirement between actual harm and any punitive award,
- 3) The constitutional safeguard against excessive and arbitrary punitive awards.

This request was included in Defendant's **Second Amended Requested Jury Instructions and Verdict Form** (CR 1227-1295, filed 05/20/2024). The expanded language tracked with I.C. §16-1604, IDJI 9.20, and the U.S. Constitution Amendment VIII.

The court **refused the expanded instruction**, (R., 1184-1188, Court Minutes 05/20/2024 Pretrial Motions), without explanation and instead gave a shortened punitive damages instruction omitting:

- Any warning against **inflaming passion or prejudice**.
- The deterrence vs. punishment distinction.
- Any guidance on constitutional limitations or proportionality.

This omission was particularly prejudicial because opposing counsel **repeatedly made inflammatory statements during trial**, including objecting during defense's closing argument after the court had stated such objections were inappropriate. The lack of limiting language in the punitive damages instruction combined with the vacuum of any actual damages presented in evidence allowed the jury to award punitive damages based on emotion rather than reasoned application of the law. The truncated instruction here fell short, especially where, as in this case, punitive damages were a central and highly contested issue.

The District Court's failure to give the requested expanded punitive damages instruction deprived the jury of necessary legal guidance, leading to an award infected by passion and prejudice. The punitive damages award should be vacated or, at minimum, the case remanded for a new trial with proper instructions.

III. The District Court Erred in Ignoring Defendant's Second Amended Requested Jury Instructions and Verdict Form

I.R.C.P. 51(b) requires the court to consider and rule on requested jury instructions. The rule's purpose is to ensure that all parties have the opportunity to present their case to the jury when supported by law and evidence.

On **May 10, 2023**, Defendant filed her **Second Amended Requested Jury Instructions and Verdict Form** (R., 1227-1295). This filing contained multiple substantive instructions essential to the defenses case, including:

1. **Defamation by Implication Instruction** - to address Plaintiff's theory that certain statements conveyed defamatory meaning indirectly.
2. **Damages Limitation Instruction** - stating that damages must be "reasonable and fair" and proportional to actual harm.
3. **Truth as a Complete Defense Instruction** - clarifying that the defense need only prove the "substance or gist" of the statement is true, not every detail.
4. **Verdict Form Modifications** - to avoid language implying Defendant's guilt or predetermining liability.

Despite being timely filed and legally supported, the District Court **did not rule on the majority of these requested instructions on the record**, nor were they incorporated into the final jury charge (R., 1360-1387, Final Jury Instructions, 05/24/2024). The omission of the **truth**

defense instruction was particularly prejudicial because Plaintiff's own testimony included admissions supporting substantial truth (Tr., pg. 350).

The **Verdict Form** (R., 1357-1359, General Verdict Form, 05/24/2024) used at trial also failed to incorporate the requested neutral language, instead framing the questions in a way that implied an assumption of liability. This was contrary to I.R.C.P. **Rule 49**'s requirement that special verdicts and interrogatories be worded neutrally so as not to bias the jury's determination. By omitting these requested instructions and using a prejudicial verdict form, the District Court deprived the jury of the full and accurate law applicable to the defense's theory of the case.

Because the omitted instructions and verdict form modifications were correct statements of the law, supported by the record, and necessary for the jury's proper consideration of the defense's case, the court's failure to adopt or rule on them was a reversible error under Rule 51(b). A new trial is warranted.

IV. The District Court Erred in the Verdict Form used by the Jury

Rule **49(a)** requires that a court submitting a special verdict or written interrogatories do so "in a form that will not mislead the jury and will permit a clear understanding of the issues to be decided." Forms that assume an answer or imply liability can deny the parties a fair trial. See *Beardsley*, 127 Idaho at 404, 901 P.2d 494 (1995). ("Verdict forms must be neutral and must not suggest to the jury the outcome the court believes is correct.").

Defendant's **Second Amended Requested Jury Instructions and Verdict Form** (R., 1227-1295, 05/22/2024) specifically requested revisions to avoid bias, including:

- Removing wording that implies Defendant had committed defamation prior to any jury finding.
- Structuring questions so the jury first had to determine liability before being asked to calculate damages.
- Eliminating leading language that suggested damages should be awarded.

Despite these requests, the court's final verdict form included phrasing that **presupposed wrongdoing** and directed the jury immediately to damages questions without a clear, neutral liability determination first.

For example, the form's opening interrogatory was phrased in a way that assumed the Plaintiff had suffered injury and asked the jury to assign an amount, rather than requiring a threshold finding of liability. This structure effectively collapsed the liability and damages phases of deliberation, increasing the risk that jurors would award damages without a clear consensus on whether the Defendant's conduct was wrongful under the law.

This prejudice was compounded by the **omission of key defense instructions** discussed in Issue III, meaning jurors were guided by a verdict form that suggested guilt while lacking the legal framework to properly evaluate the Defendant's defenses.

The verdict form failed to comply with Rule 49's neutrality requirement and prejudiced the Defendant's right to a fair trial. This defect, particularly when combined with the court's failure to adopt neutral language and correct defense instructions, warrants reversal and/or a new trial.

V. The District Court Erred in Allowing Damages to Be Considered After Plaintiff Admitted Defendant Was Not the Cause of His Job Loss

Under Idaho law, damages must be proven by a preponderance of the evidence, and punitive damages require clear and convincing evidence of both wrongful conduct and a causal link to harm claimed. See I.R.C.P. 36(b), (d); I.C. § 16-1604 (2). Damages cannot be speculative or unsupported by evidence. When a plaintiff's own testimony negates causation, the court must prevent the jury from considering damages related to that claim. During the trial, Plaintiff admitted on the stand that he was terminated from his employment at Walmart because he called a customer a racial slur, not due to any actions or statements by Defendant Bushnell. (Tr., p. 350).

Despite this direct admission, the trial court allowed the jury to consider damages for lost wages and reputational harm as if they were caused by Defendant. This permitted the jury to base an award on an event for which causation was conclusively disproven by Plaintiff's own testimony.

Defendant's counsel raised this causation gap multiple times:

- **Pretrial motion in limine** (R., 58) sought to exclude evidence of employment termination unrelated to the alleged defamation.
- **Directed verdict motions** (R., 235; R., 301) emphasized Plaintiff's admissions and the lack of any admissible evidence linking Defendant to Plaintiff's job loss.

The court's refusal to strike these damages categories from the jury's consideration violated the basic requirement that damages be both **legally and factually caused** by the alleged conduct.

The jury's verdict included compensatory damages that likely incorporated amounts for lost income and employment harm, despite Plaintiff's concession that Defendant was not the cause. This not only inflated the compensatory award but also improperly influenced the punitive damages calculation, which Idaho law requires to bear a reasonable relationship to the actual harm. See I.C. §16-1604(3). By allowing the jury to consider damages for which causation was disproven, the District Court permitted an award unsupported by law or fact. This error warrants reversal of the damages award.

VI. The District Court Erred in Its Application of Idaho Code I.C. § 16-1604 Regarding Punitive Damages

Idaho Code §16-1604(3) provides:

“No judgment for punitive damages shall exceed the greater of two hundred fifty thousand dollars (\$250,000) or an amount which is three (3) times the compensatory damages contained in such judgment. If a case is tried to a jury, the jury shall not be informed of this limitation.”

Punitive damages must also comply with constitutional limits. The U.S. Supreme Court has held that grossly excessive punitive awards violate due process. Ratios exceeding single digits are “close to the line of constitutional impropriety.”

Here, the District Court allowed the jury to award punitive damages without:

Ensuring Compliance with the Statutory Cap - The jury's punitive award, when compared to the compensatory award, exceeded the statutory maximum permitted under I.C. § 6-1604(3). Also, the court did not conduct the required post-verdict calculation to reduce the award in accordance with the statute.

Assessing the Proportionality Requirement - The punitive-to-compensatory ratio was not analyzed for constitutional excessiveness. Due to the compensatory award itself including amounts unsupported by evidence (see **Issue V**), the punitive damages were effectively multiplied against an inflated base, further compounding the excessiveness.

Ensuring Evidence Supported Punitive Damages - Under Idaho Supreme Court precedent, the trial court must determine whether the moving party has presented **clear and convincing evidence** of oppressive, fraudulent, malicious, or outrageous conduct before allowing punitive damages to go to the jury. The court here allowed punitive damages to proceed despite defense motions pointing out the absence of such evidence. (R., 235; R., 301)

The result was a punitive damages award that: Exceeded statutory limits, was disproportionate to the actual harm shown, was calculated on top of compensatory damages unsupported by evidence. Such an award is contrary to Idaho law and constitutional protections against excessive fines under the **Eighth Amendment** and due process under the **Fourteenth Amendment**.

The District Court's failure to apply Idaho Code § 16-1604(3) and to ensure constitutional proportionality requires that the punitive damages award be vacated.

VII: The District Court Erred in Failing to Provide Adequate Jury Guidance on Damages Awarded

Idaho Jury Instructions, **IDJI 9.20.5** - specifically advises that:

“In determining the amount of punitive damages, you may consider the wealth or financial condition of the defendant.”

Additionally, **IDJI 9.20** explains that punitive damages are discretionary, must be exercised without passion or prejudice, and must bear a reasonable relation to the harm and the primary purpose of deterrence.

The **Eighth Amendment** to the United States Constitution prohibits **excessive fines and cruel and unusual punishments**. While civil punitive damages are not “fines” in the criminal sense, the U.S. Supreme Court has recognized that grossly excessive awards may violate constitutional protections under due process principles.

The defense requested an instruction consistent with IDJI 9.20.5 to guide the jury on considering the defendant's ability to pay in setting punitive damages. (R., 144). The District Court did not give this instruction, depriving the jury of an essential balancing factor that Idaho law requires.

The court failed to instruct the jury on the statutory requirement that punitive damages must bear a reasonable relation to actual harm and deterrence objectives. This allowed the jury to

award an amount that was both disproportionate and untethered to the evidence of harm. The defense cited repeated instances where opposing counsel inflamed the jury during closing arguments. Without a specific instruction reinforcing impartiality and guarding against passion/prejudice in punitive damages, the risk of an improper award was heightened.

The final award, when considered against the defendant's means, operates as a lifetime financial penalty and functions as cruel and unusual punishment in violation of the Eighth Amendment and Idaho's analogous constitutional protections. The absence of the recommended instructions likely contributed to an inflated putative damages award, unmoored from both statutory constraints and constitutional limits. This omission prevented the jury from performing the careful, measured assessment required by law. Because the trial court refused to provide requested instructions drawn from IDJI 9.20 and 9.20.5, the jury lacked the necessary legal framework to award damages lawfully. Consideration by the Court to vacate the punitive damages award and/or remand for a new trial is recommended.

VIII. The District Court Erred in Its Enforcement of Idaho Rule Civil of Civil Procedure 47(a)(c)(f)

Idaho Rule of Civil Procedure **47(a)(c)(f)** exists to ensure voir dire remains a tool for impartiality, not influence. It prohibits leading or prejudicial questions that pressure jurors into particular responses or frame certain beliefs as disqualifying. Courts may inquire into potential bias—including religious or moral convictions—but the inquiry must remain strictly neutral. Rule 47(f) must be applied in harmony with Rule 47(a) (grounds for excusal for cause) and Rule

47(c) (oath to panel). Improper questioning or framing by the court during voir dire can impermissibly skew jury composition.

During jury selection, the court did improper framing. Instead of neutrally asking whether jurors could remain fair and impartial, the court referred to jurors’ “religious or moral position” in “this case” and then asked if they were “willing to set aside this religious position and render a fair and impartial verdict.” (Tr., p., 146) By its very formulation, the inquiry signaled that one category of belief—religious conviction—was presumptively incompatible with jury service unless affirmatively repudiated. This was not ordinary voir dire. It was a subtle but powerful act of influence, discouraging jurors whose convictions aligned with the defendant while leaving unexamined those whose values aligned with the plaintiff.

This framing had the predictable effect of discouraging or excluding jurors with a strong moral compass, thus shaping a panel more inclined to favor the plaintiff. The ordinary goal of voir dire is to confirm that jurors can follow the law regardless of personal background. The phrasing here did the opposite: it suggested that religious or moral conviction itself was an obstacle to impartiality. That framing not only exceeded the scope permitted by Rule 47(f) but also created the risk of constitutional infirmity by singling out religious conviction as disfavored.

Several jurors were excused for cause under Rule 47 without a full exploration of whether their beliefs would genuinely prevent them from following the law. (Tr., p.,139-144) By asking whether jurors were “willing to set aside” such convictions, the court effectively required jurors to signal, in public, whether their values aligned with the defense. This method discouraged honest disclosure and created pressure to conform, violating Rule 47(f)’s ban on

leading or prejudicial questions. Once the pattern of exclusions emerged, the court had an obligation under Rule 47(f) to ensure that voir dire questioning did not systemically exclude a subset of jurors based on protected viewpoints or general moral predispositions.

Voir Dire is the primary safeguard for the constitutional right to a fair and impartial jury. By improperly applying Rule 47(f) in conjunction with Rule 47(a) and (c), the trial court allowed the jury pool to be filtered in a way that materially prejudiced the defense. The exclusion of jurors based on moral or ethical self-identification deprived the defendant of a jury representing a cross-section of the community. The biasing effect of voir dire errors is structural, affecting the entire trial process, and requires reversal.

Each of these defects independently warrants reversal. Combined, they show that the voir dire process did not function as Rule 47(f) requires: a neutral means of testing impartiality. Instead, it became an instrument of influence, undermining the fairness of the proceeding. Because the District Court misapplied Idaho Rule 47(f) and failed to safeguard against voir dire practices that skewed the jury composition, the verdict should be vacated and/or the case remanded for a new trial before a properly selected jury.

IX. The District Court Erred in Labeling Bushnell a “Hostile Witness” Instead of an “Adverse Witness” Under I.R.E. 611

Upon further review, Appellant withdraws this argument and does not contend that the district court erred in treating Ms. Bushnell an adverse witness.

X. The District Court Erred When One Judge Deemed Bushnell a “Media Defendant” and Another Did Not, Creating Inconsistent Application of the Law

Consider the following - First the Idaho Constitution, Article I, Section 9 says: “Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that liberty.” Second, In *In re Wright*, 108 Idaho 418, 700 P.2d 40 (1985), the Idaho Supreme Court recognized that “media defendants” in defamation actions are entitled to heightened constitutional protections, including procedural safeguards related to the actual malice standard. The classification of a party as a “media defendant” is a threshold determination affecting the applicable standard of proof, available defenses, and burden allocations.

In an earlier hearing in 2023 before Judge Myers, Bushnell was deemed to not be a “media defendant”. In a later hearing before Judge Pittman in 2024, that classification was reversed/rejected. This inconsistency undermined Bushnell’s ability to present her defense, because whether she is a media defendant affects: 1) The scope of discovery and admissibility of evidence regarding her intent, 2) Whether the actual malice standard applies, 3) Jury Instructions on fault and damages, and 4) Without a consistent ruling, Bushnell could not reliably tailor her trial strategy to the correct constitutional standard.

In re Wright makes clear that media-defendant status must be determined by function—whether the defendant was engaged in disseminating information to the public—not by subjective judicial impressions of the defendant’s character or motivations. Here, the district court reversed its earlier determination without explanation and without any change in the underlying facts, which constitutes legal error. Compounding that error, the court failed to

implement any measures to cure the downstream prejudice created by its reversal, particularly with respect to the scope of discovery. Once the defendant’s status was altered, prior discovery rulings—structured on the assumption of media-defendant protections—were left unremedied. Idaho law requires not only correct application of legal standards but also remedial action when an erroneous ruling has affected subsequent proceedings. The absence of corrective measures exacerbated the prejudice and denied Appellant a fair opportunity to litigate her claims.

The District Court’s inconsistent treatment of Bushnell’s media defendant status violated Idaho constitutional protections and controlling Idaho Supreme Court precedent. The resulting prejudice was structural, affecting the standards applied to the case from discovery through jury deliberations. This error warrants reversal and/or remand for a new trial under a consistent and correct constitutional framework.

XI. The District Court Erred in Holding That Posey Was Not a Limited Purpose Public Figure

The following cases affect the of consideration of Posey to be or not to be a “limited purpose public figure.”

Gertz v. Robert Welch, Inc. (1974): A limited purpose public figure is one who voluntarily injects themselves or is drawn into a particular public controversy and thereby becomes a public figure for a limited range of issues.

Curtis Publishing Co. V. Butts (1967): Public figures, even if not public officials, must prove “actual malice” in defamation claims.

Hustler Magazine v. Falwell (1988): The actual malice standard protects robust debate on public issues and controversial conduct.

In all of the above mentioned cases, determination was based on the plaintiff's role in the controversy, the nature of the controversy, and whether the plaintiff sought to influence its resolution.

Evidence That Posey Was a Limited Purpose Public Figure: 1) Posey's conduct at a public park performing in front of many people, including minors, were at the center of a public controversy that garnered profound media attention, 2) By making public accusations, engaging with multiple community members, and allowing his claims to be discussed in public forums, Posey voluntarily participated in - and helped shape - the public discourse surrounding the events, and 3) Posey's interactions with the press and willingness to make statements for public consumption indicate a purposeful engagement with public attention.

Despite the above, the District Court held that Posey was not a limited purpose public figure. The court did not apply the Gertz framework, instead focusing narrowly on whether Posey had celebrity status or extensive media coverage. This is contrary to Supreme Court precedent, which recognizes that public figure status can arise in discrete controversies even for otherwise private individuals.

The classification error removed the requirement for Posey to prove **actual malice**, lowering his burden of proof to negligence. This change materially altered the jury instructions, the admissibility of certain evidence, and the scope of the defense's First Amendment protections. Without the actual malice requirement, the jury could find liability without proof

that Bushnell knowingly published false statements or acted with reckless disregard for the truth—which is what ended up happening.

The absence of the actual malice instruction deprived Bushnell of a constitutionally mandated defense for speech related to public controversies. The verdict and damages awarded may have been substantially different had the proper standard been applied. The District Court’s failure to recognize Posey as a limited purpose public figure was a legal error. The misclassification lowered the plaintiff’s burden of proof and deprived Bushnell of constitutional protections, warranting reversal.

CONCLUSION

For the forgoing reasons, the judgment of the District Court should be reversed. The trial court committed multiple errors affecting substantial rights, including, but not limited to, misapplication of Idaho Rules of Civil Procedure 47(a), 47(c) and 47(f) in jury selection, failure to require proof of actual loss for damages, erroneous jury instructions and verdict form, improper handling of punitive damages under I.C § 16-1604, and misapplication of constitutional and evidentiary standards. Each of these errors, independently and collectively, deprived Appellant of a fair trial and materially affected outcome.

Accordingly, Appellant respectfully request that this Court:

- 1) Reverse the judgment entered May 31,2024 (R.,p., 1388-1390) and all orders denying post-trial relief (R.,p., 315);

- 2) Vacate the award of compensatory and punitive damages, and/or;
- 3) Consider remand for a new trial consistent with Idaho Statute and the Idaho Constitution.

DATED this 18th day of August, 2025.

By: /s/ Summer Bushnell

Appellant, Pro Se

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of August, 2025, I caused to be served a true and accurate copy of the foregoing document upon the following attorney(s) by the method indicated:

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|---|---|

/s/ Summer Bushnell _____

Appellant, Pro Se