

JUL 15 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAMES GIBSON; LAURIE GIBSON,
husband and wife,

Plaintiffs - Appellants,

v.

OWYHEE PRODUCE, LLC, an Oregon
limited liability company,

Defendant - Appellee.

No. 12-35981

D.C. No. 3:11-cv-01132-SI

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael H. Simon, District Judge, Presiding

Argued and Submitted July 8, 2014
Portland, Oregon

Before: PREGERSON, PAEZ, and WATFORD, Circuit Judges.

We VACATE the district court's grant of partial summary judgment, and
REMAND for further consideration in light of the Oregon Court of Appeals's
intervening decision in *Spain v. Jones*, 308 P.3d 257 (Or. Ct. App. 2013).

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

The parties shall bear their own costs on appeal.

VACATED and REMANDED.