

# Drought v. Marsh

**Case Number**

S-19-0018

**Case Audio**

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**Call Date**

December 5, 2019

**Case Time**

9:00 AM

**Court Number**

Lancaster

**Case Location**

Lincoln

**Court Type**

District Court

**Case Summary**

S-19-0018 Kevin Drought and Kyle Fessler (Appellants) v. Eric Marsh and The Bar at the Yard, LLC, d/b/a Longwells Restaurant (Appellees)

Lancaster County District Court, Judge Andrew R. Jacobsen

Attorneys: Jennifer M. Tomka (Amen Law, for Appellants) ? Brian S. Koerwitz (Endacott Peetz & Timmer, PC LLO, for Appellees)

Civil: Nebraska Wage Payment and Collection Act - entitlement to ?paid time off? (PTO)

Proceedings Below: The trial court granted Appellees? motion for summary judgment and denied Appellants? motion for summary judgment.

Issues: Whether the court erred in 1) failing to find that they were entitled to their earned but unused PTO after terminating their employment with Appellees; 2) failing to find that some terms in the employment agreement were inapplicable to the employment situation of Appellants but finding that Appellants did not earn PTO because they could not prove those inapplicable terms and failing to address that there can be no mutual mistake in a unilateral employment agreement; 3) failing to find that the parties? understanding and agreement of how PTO was earned was demonstrated by the fact that both Appellants had been paid for PTO before their terminations; and 4) granting Appellees? motion for summary judgment and denying Appellants? motion for summary judgment.

**Schedule Code**

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