

## **SUMMARY STATEMENT**

*Fuquay v. King*, Docket No. 44155

In an appeal from Owyhee County, the Supreme Court affirmed the district court's grant of summary judgment against John Fuquay, Clinton Fuquay, and Hailey Fuquay (the Fuquays), and in favor of Gilbert King, as Trustee of the Heart K Ranch Trust, the Estate of Gordon King, Rose King (the Kings), Susie Low, and Cal Low (the Lows). The Court also affirmed the district court's denial of the Fuquays' motion for reconsideration in a property dispute concerning an alleged prescriptive easement in favor of the Fuquays across the Kings' and Lows' property via a road known as King Lane.

The Court held that the district court applied the correct presumption that the Fuquays' use of King Lane, which began in 1977, was permissive use based on the Kings' annual improvement of King Lane, starting in 1973, into an all-weather roadway. The Court found that the Fuquays failed to present any evidence of hostile or adverse acts that infringed on the Kings' rights. The Court awarded the Kings and the Lows attorney fees and costs on appeal under Idaho Code section 12-121 after it determined that the Fuquays presented substantially the same argument on appeal that they presented to the district court without adding any new analysis or authority to refute the district court's reasoned conclusions.