

SUMMARY STATEMENT

Fischer v. Croston

Docket No. 44887

The Idaho Supreme Court affirmed the Bonneville County district court's order granting summary judgment in favor of William R. Fischer and M. Ann Fischer, trustees of the William and Ann Fischer Revocable Trust (Fischers). Following a boundary dispute between the Fischers and their neighbors, James and Marjorie Croston (Croston), the Fischers obtained a survey which revealed the platted property line differed from the boundary line dividing the properties that had been observed for several decades. Following the survey, the Crostons constructed a new fence on the survey line prompting the filing of the present dispute. The district court granted summary judgment in favor of the Fischers, concluding the original boundary line constituted a boundary by agreement, and there was no binding agreement to change the line.

The Idaho Supreme Court affirmed the district court's order granting summary judgment. The Court held that there was no binding agreement to change the property line, as the only evidence the Crostons provided showing such agreement was a conversation between their son and the Fischers, and such conversation was insufficient to form a binding agreement to change the boundary line. Moreover, the Court held that the Crostons trespassed when they entered the Fischers' land and constructed a fence thereon, and as such the Fischers were entitled to attorney fees as to the trespass issue. Accordingly, the district court was affirmed.