

SUMMARY STATEMENT

Radford v. Van Orden

Docket No. 47364

Respondent Mark Radford sued Appellant Jay Van Orden for damages from trespass of lands and trespass of cattle, among other claims, and also sued Appellant Seven J Ranches, Inc. (“Seven J”) for reimbursement for the construction of a partition fence pursuant to Idaho Code section 35-103. The two cases were consolidated. Upon Van Orden’s motion for summary judgment, the district court determined that Radford had standing to sue Van Orden for trespass, even though Radford was not the property owner when the trespass occurred, because the previous property owner executed an assignment of claims to him. After a bench trial, the district court found Van Orden was liable for trespass and awarded damages to Radford, and required Seven J to reimburse Radford for one half of a constructed partition fence. The district court also found Van Orden was not liable for trespass of cattle and ordered Radford to construct a gate at the southern edge of his property to allow Van Orden to access an easement that runs across Radford’s property. The district court determined Radford to be the overall prevailing party and awarded attorney fees only against Seven J. Van Orden and Seven J appealed the district court’s standing determination on summary judgment, the damages awarded against Van Orden on Radford’s trespass claim, the reimbursement awarded on the partition fence claim against Seven J, and the prevailing party determination for purpose of awarding attorney fees. Radford cross-appealed the district court’s denial of his claim for trespass of cattle and the district court’s requirement that he construct a gate for Van Orden at the edge of his property.

On Van Orden and Seven J’s appeal, the Idaho Supreme Court affirmed the district court’s decision on summary judgment finding Radford had standing to sue Van Orden. The Court also affirmed the district court’s decisions: (1) to admit the testimony of Radford’s expert witness and the court’s determination of damages; (2) finding Radford’s fencing notice to Seven J was sufficient; and (3) that Radford was the prevailing party below and was entitled to reasonable attorney fees against Seven J. The Court also determined that Radford was the prevailing party on appeal regarding the fence claim, and awarded him reasonable attorney fees and costs against Seven J.

On Radford’s cross-appeal, the Court affirmed the district court’s decision ordering Radford to remove the fence that blocked Van Orden’s access to his easement. However, the Court reversed the district court’s ruling that Radford failed to prove damages regarding his trespass of cattle claim against Van Orden and remanded the case for further consideration of damages under Radford’s unjust enrichment theory. No costs were awarded.

This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.