

## SUMMARY STATEMENT

*Millard v. Talburt*

Docket No. 49773-2022

The Idaho Supreme Court affirmed the district court's decision in favor of the Millards. This case arises from a property dispute between Appellants Robert and Debra Talburt and their neighbors, Respondents Miles and Leanne Millard. The parties disputed the validity and scope of a roadway easement and scope of a well easement written into a segregation plat when their properties were subdivided. The parties also disputed the ownership of a tract of land between their lots and the effect of a shared well agreement executed by the Millards and the Talburts' predecessor.

The Millards sued the Talburts seeking (1) a declaratory judgment regarding the existence and scope of a roadway easement across the Talburts' property, (2) a declaratory judgment regarding the scope of an easement for access and usage of a shared well, (3) to quiet title to the disputed tract of land, and (4) breach of contract for a shared well agreement. The Millards requested attorney fees pursuant to Idaho Code section 12-121. After this litigation had commenced, the Talburts constructed a fence on the Millards' side of the roadway easement, padlocked the shared well, and sent a letter to the Millards stating they were relocating the roadway easement pursuant to Idaho Code section 55-313.

The Millards moved for summary judgment on all issues. The district court granted summary judgment on the fact that the roadway easement existed but denied summary judgment on all other issues. The Talburts moved for reconsideration, arguing the roadway easement was invalid under Idaho Code section 55-601, which requires the name and address of the grantee be included on any instrument conveying real property. The district court denied the motion, holding that Idaho Code section 55-601 does not apply because a subdivision of a property via a segregation plat is not a conveyance of real property.

After a two-day trial on the remaining issues, the district court held that (1) the plain language of the roadway easement granted the Millards a valid easement for ingress and egress to their entire property and reasonable maintenance of the easement; (2) the well easement granted the Millards the right to access, use, monitor, and maintain the shared well and the Talburts must share in the costs and responsibilities of maintaining the shared well; (3) the disputed land has belonged to the Talburts since a 2011 boundary line adjustment and the Millards had not established a prescriptive easement to use the land; and (4) the breach of contract claim was dismissed because it was not pursued at trial. Additionally, the district court held the fence constituted a spite fence that must be removed. The district court held that the Talburts could not relocate the roadway easement pursuant to Idaho Code section 55-313 because section 55-313 only allows an easement to be moved if it would not harm users of the easement and the relocation would injure the Millards. Lastly, the district court awarded the Millards their reasonable attorney fees and costs pursuant to Idaho Code section 12-121.

The Talburts appealed, arguing that the district court erred in (1) holding that the inclusion of an easement on the segregation plat did not constitute a conveyance under Idaho Code section 55-601; (2) interpreting the scope of the roadway easement to allow for ingress and egress to the Millards' entire property; (3) interpreting the scope of the well easement to grant the Millards the

right to access, use, monitor, and maintain the shared well and imposing shared costs of maintenance of the well on the Talburts; (4) holding that the Talburts cannot relocate the roadway easement pursuant to Idaho Code section 55-313 because the relocation would injure the Millards; (5) ordering the removal of the fence; and (6) awarding attorney fees pursuant to Idaho Code section 12-121.

The Idaho Supreme Court affirmed the district court's decision. The Court held that (1) the inclusion of the easement on the segregation plat did not convey an estate in real property for purposes of Idaho Code section 55-601; (2) the scope of the roadway easement includes the right of ingress and egress to the entirety of the Millards' property; (3) the scope of the well easement grants the Millards the right to access, use, monitor, and maintain the shared well and the Talburts must share in the costs of the shared well; (4) Idaho Code section 55-313 prevented the Talburts from unilaterally relocating the roadway easement because it would injure the Millards; (5) the Talburts must remove the spite fence because it interferes with the Millards' full enjoyment of their easement rights; and (6) the district court did not err in considering the entire course of litigation and considering pre-trial settlement negotiations in awarding attorney fees. Lastly, the Court awarded the Millards a partial award of attorney fees and costs on appeal pursuant to Idaho Code section 12-121.

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