

BOISE, TUESDAY, APRIL 16, 2024, AT 1:30 P.M.

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 50864

GRANT A. LIPPS and DEBORAH J.)
LIPPS, Husband and Wife,)
)
Plaintiffs-Appellants,)
)
v.)
)
KEVIN NYE and JULIE NYE, Husband)
and Wife; and LAWRENCE F. NOLAN)
and KATHLEEN D. NOLAN, Husband)
and Wife,)
)
Defendants-Respondents,)
)
and)
)
DOES 1-10,)
)
Defendants.)
)

Appeal from the District Court of the First Judicial District, State of Idaho, Bonner County. Hon. Susie Jensen, District Judge.

Briston George Real Estate and Construction Lawyers; J.D. Briston and Gregory M. George, Coeur d’Alene, for appellants.

J. T. Diehl, Sandpoint, for Nye respondents.

Finney, Finney & Finney, P.A.; John A. Finney, Sandpoint, for Nolan respondents.

Grant and Deborah Lipps appeal from the district court’s grant of summary judgment in favor of Kevin and Julie Nye and Lawrence and Kathleen Nolan. The Lipps allege the district court considered improperly disclosed evidence as a basis for the grant of summary judgment in addition to misapplying the elements required for an implied easement, or alternatively, for failing to consider the historic use and geographic location of the driveway establishing a covenant. The Nyes contend the district court properly considered the evidence submitted and the elements of an

implied easement have not been met, or alternatively, the road maintenance agreement did not create a covenant permitting use. The Nolans contend the district court properly dismissed the misrepresentation claim because the Lipps failed to plead misrepresentation with particularity and their claims failed as a matter of law. The Nolans and Nyes seek attorney fees on appeal.