

JADE MORTENSEN and KYLIE)	
MORTENSEN,)	
)	
Plaintiffs-Counterdefendants-)	
Respondents,)	Docket No. 44303
v.)	
)	
GALUST BERIAN and YVETTE N.)	
STURGIS,)	
)	
Defendants-Counterclaimants-)	
Appellants.)	

Rigby, Andrus & Rigby Law, PLLC, Rexburg, for respondents.

Galust Berian and Yvette Sturgis appeal the decision of the district court in Madison County finding them liable for the destruction of a ditch on their property. Jade and Kylie Mortensen brought this action after Berian destroyed a ditch that ran across his property and served the Mortensen property. Berian counterclaimed for trespass. After a bench trial the district court found Berian and Sturgis liable for destroying the ditch and awarded the Mortensens \$1,020, the cost of reopening the ditch. The district court also found that Jade Mortensen had trespassed and awarded Berian \$50 in nominal damages. Berian and Sturgis argue that Mortensens had abandoned the ditch prior to the destruction of that ditch and that the district court erred in failing to award attorney fees in association with the trespass claim.