

SUMMARY STATEMENT

Bass v. Esslinger

Docket No. 49240

Between two parcels of land outside Slate Creek, Idaho, there is a one-third of an acre strip that the owners of both parcels contend ownership to. The Basses own the southern parcel and the Esslingers own the northern parcel—until recently, there was a fence between the parcels that had historically been considered the boundary between them.

The Esslingers, preparing to sell their parcel, had the land surveyed and discovered that the boundary was actually just south of the fence. Based on that discovery, the Esslingers entered the land, removed the fence, tore down trees, and mowed the underbrush. In response, the Basses filed a complaint against the Esslingers for civil trespass and other claims based on their historical understanding of the boundary and the Esslinger's actions on the disputed land.

The district court granted summary judgment for the Basses, declined to take judicial notice of a case file from a 2006 quiet title action concerning the northern parcel, found that a boundary by agreement existed at the historic fence line, denied a motion to continue the summary judgment hearing pending criminal trespass charges against the Esslingers, and granted the Basses \$107,134.32 in damages. This appeal followed from the Esslingers, alleging that the district court erred when it granted summary judgment for the boundary by agreement claim, denied the request for judicial notice, and denied the motion for continuance.

Today, the Supreme Court affirms the decisions of the district court. The grant of summary judgment and the denial of the motions was proper given the untimeliness of the motions and the discretion of the district court. Moreover, the Basses are awarded attorney's fees for part of the appeal under 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.*****