

COURT OF APPEALS, TENTH APPELLATE DISTRICT OF TEXAS

Francis Landry and Tamarra L. Landry v. John T. Unger

No. 10-24-00200-CV (Tex. App.—Waco? 2026) · No. No. 10-24-00200-CV · Decided June 11, 2026

SUMMARY

The Texas Court of Appeals considers an appeal concerning the scope and use of two non-exclusive access easements. The court affirms declaratory and injunctive relief restricting the placement of signs and fences, exclusion of other users, and excessive tree and shrub removal, as well as the award of attorney’s fees.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Court of Appeals, Tenth Appellate District of Texas                                                                                                                                                                                                                                                                                                                                                                                              |
| WRITING FOR THE COURT | Matt Johnson, Chief Justice; Justice Smith; Justice Harris                                                                                                                                                                                                                                                                                                                                                                                       |
| JURISDICTION          | Court of Appeals, Tenth Appellate District of Texas                                                                                                                                                                                                                                                                                                                                                                                              |
| DECIDED               | June 11, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DOCKET                | No. 10-24-00200-CV                                                                                                                                                                                                                                                                                                                                                                                                                               |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | Appeal from a final judgment after a bench trial granting declaratory and permanent injunctive relief concerning two nonexclusive access easements and awarding attorney's fees to Unger.                                                                                                                                                                                                                                                        |
| STANDARD OF REVIEW    | Conclusions of law are reviewed de novo; findings of fact after a bench trial are reviewed for legal and factual sufficiency under the standards applicable to jury findings. Permanent-injunction rulings and attorney's-fee awards are reviewed for abuse of discretion. An erroneous legal conclusion does not require reversal if the judgment is sustainable under a correct legal theory, and an immaterial erroneous finding is harmless. |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| PARTIES               | Francis Landry, Tamarra L. Landry v. John T. Unger                                                                                                                                                                                                                                                                                                                                                                                               |

TOPICS

- easements
- declaratory judgment
- injunctions
- attorney fees
- appellate procedure

## PRACTICE AREAS

real estate

easement law

declaratory judgments

injunctive relief

attorney's fees

appellate procedure

## QUESTIONS PRESENTED

1. Whether the trial court incorrectly interpreted the Landrys' nonexclusive access easements by declaring that they did not authorize signs, fences, exclusion of other users, or unrestricted cutting and removal of trees and shrubs.
2. Whether the trial court's findings concerning the identity of Private Road 2010 and the Landrys' cutting and trimming of vegetation were supported by sufficient evidence and whether any erroneous finding required reversal.
3. Whether the permanent injunctions were overly broad, failed to comply with Texas Rule of Civil Procedure 683, lacked evidentiary support, or were unsupported by irreparable injury.
4. Whether the trial court erred by refusing to make additional findings and conclusions concerning attorney's fees.
5. Whether the attorney's-fee award was legally authorized, properly segregated, reasonable and necessary, supported by sufficient evidence, equitable and just, and calculated under the lodestar method.

## HOLDINGS

1. An easement holder may use the full area described by the easement for the purpose stated in the grant, but may not use the easement for activities not authorized by the grant or unreasonably interfere with the servient-estate owner's property rights. The Landrys' nonexclusive access easements did not authorize them to place signs or fences within the easements, exclude Unger's guests and invitees, or cut and remove vegetation beyond what was reasonably necessary for access.
2. The evidence supported the trial court's findings concerning the Landrys' excessive cutting and the resulting declarations, while the finding that both easements were also known as Burleson County Private Road 2010 was erroneous but immaterial and harmless.
3. The trial court did not abuse its discretion by permanently enjoining the Landrys from placing signs or fences within the easements, excluding other users, or placing road bumps on Private Road 2010.
4. The trial court did not abuse its discretion in awarding Unger \$68,701 in attorney's fees, refusing additional findings, or declining to reverse for lack of segregation, lack of a lodestar calculation, or insufficient proof.

## KEY QUOTATIONS

*“The language in the non-exclusive access easements does not authorize the Landrys to place signs on the easements, erect fencing on the easements, exclude Unger’s guests and invitees from using the easements, or cut trees and shrubs on the easement.” (at 12)*

*“The prior court of appeals’ decision allows the Landrys to use the full easement, but only for the purpose provided in the easements.” (at 13)*

*“If a use does not serve the easement’s express purpose, it becomes an unauthorized presence on the land whether or not it results in any noticeable burden to the servient estate.”* (at 23)

## FACTUAL BACKGROUND

Unger owned two tracts of land in Burleson County, while the Landrys owned a seven-acre tract located within Unger's second tract. The Landrys held two nonexclusive access easements across Unger's property, including a 60-foot-wide easement across Tract 1 and a 30-foot easement across Tract 2. The parties disputed the Landrys' placement of signs and fences, exclusion of Unger's guests and invitees, cutting of trees and shrubs, and installation of road bumps or diversion berms within the easement areas. The trial court found that these activities exceeded the easements' access purpose or unreasonably interfered with Unger's servient-estate rights.

## PROCEDURAL HISTORY

Unger sued the Landrys and other easement holders in 2017, seeking declaratory and injunctive relief based on alleged interference with his rights as owner of the servient estate. After a bench trial, the trial court entered a final judgment on April 1, 2024, declaring limits on the Landrys' use of the easements, permanently enjoining specified conduct, and awarding Unger \$68,701 in attorney's fees plus conditional appellate fees. The Landrys appealed, and the Court of Appeals affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Unger v. Landry, No. 01-03-01331-CV, 2005 WL 21396 (Tex. App.—Houston [1st Dist.] Jan. 6, 2005, pet. denied) (mem. op.)
- Hegar v. American Multi-Cinema, Inc., 605 S.W.3d 35, 40 (Tex. 2020)
- Material P'ships, Inc. v. Ventura, 102 S.W.3d 252, 257 (Tex. App.—Houston [14th Dist.] 2003, pet. denied)
- Wells Fargo Bank, N.A. v. Citizens Bank of Tex., N.A., 181 S.W.3d 790, 796 (Tex. App.—Waco 2005, pet. denied)
- Westech Eng'g, Inc. v. Clearwater Constructors, Inc., 835 S.W.2d 190, 196 (Tex. App.—Austin 1992, no writ)
- Tex. Outfitters Ltd., LLC v. Nicholson, 572 S.W.3d 647, 653 (Tex. 2019)
- Anderson v. City of Seven Points, 806 S.W.2d 791, 794 (Tex. 1991)
- City of Keller v. Wilson, 168 S.W.3d 802, 822 (Tex. 2005)
- Ortiz v. Jones, 917 S.W.2d 770, 772 (Tex. 1996)
- Fulgham v. Fischer, 349 S.W.3d 153, 157 (Tex. App.—Dallas 2011, no pet.)
- Eggemeyer v. Hughes, 621 S.W.3d 883, 890 (Tex. App.—El Paso 2021, no pet.)
- State v. Brownlow, 319 S.W.3d 649, 652 (Tex. 2010)
- Stephen F. Austin State Univ. v. Flynn, 228 S.W.3d 653, 658 (Tex. 2007)

- Clearpoint Crossing Prop. Owners Ass'n & Cullen's LLC v. Chambers, 569 S.W.3d 195, 200 (Tex. App.—Houston [1st Dist.] 2018, pet. denied)
- Coleman v. Forister, 514 S.W.2d 899, 903 (Tex. 1974)
- DeWitt Cty. Elec. Coop., Inc. v. Parks, 1 S.W.3d 96, 100 (Tex. 1999)
- CenterPoint Energy Houston Elec. LLC v. Blubonnet Drive, Ltd., 264 S.W.3d 381, 388 (Tex. App.—Houston [1st Dist.] 2008, pet. denied)
- Robles v. Mann, No. 13-14-00211-CV, 2016 WL 1613316, at \*5 (Tex. App.—Corpus Christi—Edinburg Apr. 21, 2016, no pet.)
- Gilbert Wheeler, Inc. v. Enbridge Pipelines (East Texas), L.P., 449 S.W.3d 474 (Tex. 2014)
- Texas Dep't of Public Safety v. Salazar, 304 S.W.3d 896, 908 (Tex. App.—Austin 2009, no pet.)
- Gilbreath v. Horan, 682 S.W.3d 454, 543 (Tex. App.—Houston [1st Dist.] 2023, pet. denied)
- Glattly v. Air Starter, 332 S.W.3d 620, 642 (Tex. App.—Houston [1st Dist.] 2010, pet. denied)
- Brazos Valley Roadrunners, LLC v. Herrera, 708 S.W.3d 289, 293 (Tex. App.—Waco 2025, no pet.)
- Downer v. Aquamarine Operators, Inc., 701 S.W.2d 238, 241-42 (Tex. 1985)
- Yowell v. Granite Operating Co., 620 S.W.3d 335, 354 (Tex. 2020)
- Arthur Andersen & Co. v. Perry Equipment Corp., 945 S.W.2d 812, 818 (Tex. 1997)
- El Apple I, Ltd. v. Olivas, 370 S.W.3d 757, 760, 762-63 (Tex. 2012)
- Ragsdale v. Progressive Voters League, 801 S.W.2d 880, 881 (Tex. 1990)
- Zhang v. Cap. Plastic & Bags, Inc., 587 S.W.3d 82, 88-90 (Tex. App.—Houston [14th Dist.] 2019, pet. denied)
- Goode v. Shoukfeh, 943 S.W.2d 441, 446 (Tex. 1997)
- Butnaru v. Ford Motor Co., 84 S.W.3d 198, 204, 211 (Tex. 2002)