

SUPREME COURT OF MONTANA

Musselshell Ranch Co. v. Seidel-Joukova

2012 MT 222, 366 Mont. 337 · No. DA 12-0151 · Decided October 9, 2012

SUMMARY

The Montana Supreme Court affirmed the denial of attorney fees and costs to Musselshell Ranch Company and related plaintiffs in litigation concerning interference with irrigation ditch easement rights. The Court held that under § 70-17-112(5), MCA, a party must prevail on all claims brought under the statute to qualify as the prevailing party, and the Ranch had not prevailed on every claim.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Patricia O. Cotter; Patricia O. Cotter; Mike McGrath; Beth Baker; James C. Nelson; Jim Rice
JURISDICTION	Montana
DECIDED	October 9, 2012
DOCKET	DA 12-0151
DISPOSITION	affirmed
PROCEDURAL POSTURE	Second appeal concerning entitlement to attorney fees and costs after the appellants partially prevailed in litigation involving interference with irrigation-ditch easement rights.
STANDARD OF REVIEW	The court reviews for correctness a district court's decision whether legal authority exists to award attorney fees.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; binding state precedent.
PARTIES	Musselshell Ranch Company, Mary T. Cooley, Daniel Cooley, Brian Cooley, Darren Cooley, Callie Rech, d/b/a Cooley Ranch v. Nataliya Seidel-Joukova, a/k/a Nataliya Seidel Joukova, John Does 1-5

TOPICS

- easements
- real estate
- remedies
- appellate procedure
- statutory interpretation

PRACTICE AREAS

- Real estate law
- Easement law
- Attorney fees
- Appellate procedure

QUESTIONS PRESENTED

1. Whether a party that prevailed on most, but not all, claims brought under Montana Code § 70-17-112 may recover attorney fees and costs under subsection (5).
2. Whether the District Court erred in denying the Ranch's request for attorney fees and costs after the first appeal resulted in removal of the culvert and rock bridge.

HOLDINGS

1. A party seeking attorney fees and costs under Montana Code § 70-17-112(5) must prevail on all claims raised pursuant to that statute; prevailing on a majority of the claims is insufficient.

KEY QUOTATIONS

“This line of cases unequivocally establishes that a “prevailing party” under § 70-17-112(5), MCA, must prevail on all claims raised pursuant to § 70-17-112, MCA.” (¶ 27)

“For the foregoing reasons, we affirm the District Court’s denial of the Ranch’s request for attorney fees.” (¶ 29)

FACTUAL BACKGROUND

The Ranch owned long-established water rights from the Musselshell River, exercised through the Cooley-Goffena irrigation ditch crossing property later purchased by Joukova. Joukova altered access routes, installed a culvert in the ditch, and covered it with a rock bridge. The Ranch sued, alleging interference with its ditch and secondary easement rights. The Ranch prevailed on several access-related claims and, after the first appeal, obtained an order requiring removal of the culvert and bridge, but did not prevail on its claim concerning use of the gravel road along the ditch.

PROCEDURAL HISTORY

The Ranch sued Joukova under Montana statutes governing canal and ditch easements. The District Court ruled for the Ranch on some access-related claims but ruled for Joukova concerning a culvert and rock bridge and concluded that neither party was a prevailing party entitled to fees. In the first appeal, the Montana Supreme Court reversed as to the culvert and bridge and remanded for their removal, but the Ranch did not appeal the original fee ruling. On remand, the Ranch renewed its fee request, which the District Court denied; the Montana Supreme Court affirmed that denial.

DISPOSITION

affirmed

CASES CITED

- Musselshell Ranch Co. v. Seidel-Joukova, 2011 MT 217, 362 Mont. 1, 261 P.3d 570
- Benintendi v. Hein, 2011 MT 298, 363 Mont. 32, 265 P.3d 1239
- Knudsen v. Taylor, 211 Mont. 459, 685 P.2d 354 (1984)

- Sharon v. Hayden, 246 Mont. 186, 803 P.2d 1083 (1990)
- Boylan v. Van Dyke, 247 Mont. 259, 806 P.2d 1024 (1991)
- Rieman v. Anderson, 282 Mont. 139, 935 P.2d 1122 (1997)
- Engel v. Gampp, 2000 MT 17, 298 Mont. 116, 993 P.2d 701
- Espy v. Quinlan, 2000 MT 193, 300 Mont. 441, 4 P.3d 1212
- Graveley Simmental Ranch Co. v. Quigley, 2003 MT 34, 314 Mont. 226, 65 P.3d 225
- Byrum v. Andren, 2007 MT 107, 337 Mont. 167, 159 P.3d 1062
- Avanta Fed. Credit Union v. Shupak, 2009 MT 458, 354 Mont. 372, 223 P.3d 863

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