

OREGON COURT OF APPEALS

Butori v. Bosma

348 Or. App. 278 (2026) · No. A181266 · Decided April 8, 2026

SUMMARY

The Oregon Court of Appeals affirmed a judgment awarding Tom Butori \$810,000 in treble damages for a willful or intentional timber trespass by Henry Bosma and Bosma Enterprises, Inc. The court held that testimony concerning Butori's own belief about the property line was not hearsay, that evidence of a prior settlement was properly admitted for the limited purpose of proving intent or knowledge, and that sufficient evidence supported Bosma's personal liability for his own acts.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Oregon Court of Appeals                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| WRITING FOR THE COURT | Ortega, Presiding Judge; Hellman, Judge; O'Connor, Judge                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| JURISDICTION          | Oregon Court of Appeals                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| DECIDED               | April 8, 2026                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| DOCKET                | A181266                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| PROCEDURAL POSTURE    | Defendants appealed a judgment awarding plaintiff \$810,000 in treble damages after a jury found that defendants willfully or intentionally committed timber trespass.                                                                                                                                                                                                                                                                                                                                  |
| STANDARD OF REVIEW    | The denial of a motion for directed verdict is reviewed for legal error. A directed verdict is proper only if the court can affirmatively say that there is no evidence from which a jury could find facts necessary to establish each element of the claim; the evidence is viewed in the light most favorable to the nonmoving party, without weighing evidence or assessing witness credibility. The admission of the prior settlement agreement under OEC 403 was reviewed for abuse of discretion. |
| PRECEDENTIAL VALUE    | Published precedential opinion                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| PARTIES               | Henry Bosma, Bosma Enterprises, Inc. v. Tom Butori                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

TOPICS

- trespass
- damages
- hearsay
- relevance
- appellate procedure

## PRACTICE AREAS

Torts

Evidence

Real Property

Appellate Procedure

Business Organizations

## QUESTIONS PRESENTED

1. Whether the trial court improperly admitted hearsay when Butori testified about his own belief regarding the location of the property line after meeting with the county surveyor.
2. Whether the trial court improperly admitted evidence of a prior timber-trespass settlement agreement under OEC 408, OEC 403, and OEC 404(3).
3. Whether the evidence was insufficient to hold Bosma personally liable for the timber trespass and therefore required a directed verdict in his favor.

## HOLDINGS

1. The testimony was not hearsay because Butori testified to his own belief about the property line and did not convey any out-of-court statement or assertion made by the county surveyor.
2. The trial court acted within its discretion in admitting the prior settlement agreement, including a redacted copy, because it was offered to show defendants' knowledge of the property-line dispute and whether the alleged trespass was willful or intentional, not to prove liability for the current claim. The redaction of the settlement amount and limiting jury instruction adequately addressed the risk of unfair prejudice.
3. The trial court properly denied Bosma's motion for a directed verdict because sufficient evidence allowed the jury to find that Bosma personally directed the conduct that caused the timber trespass. An LLC member or manager is not liable solely because of that status, but remains liable for the member's or manager's own actionable acts or omissions.

## KEY QUOTATIONS

*“Here, defendants fail to identify the out-of-court “statement” in plaintiff’s challenged testimony.” (283)*

*“Here, plaintiff offered Exhibit 68 not to prove liability—that defendants had in fact committed timber trespass in this case—but instead “for another purpose”—to establish that, if defendants committed the instant timber trespass, they did so willfully and intentionally because they were aware that the location of the property line was in dispute.” (285)*

*“However, “an LLC member is not insulated from liability for the person’s own acts.”” (287)*

*“From that evidence, the jury could reasonably infer that defendant personally, and willfully or intentionally, caused the clearing on government Lot 6.” (288)*

## FACTUAL BACKGROUND

Butori and Bosma Enterprises owned adjacent parcels of real property, government Lots 6 and 7. Butori alleged that in 2018 Bosma hired VB Construction to perform construction work and that, during that work, defendants knowingly and willfully crossed the property line and removed trees, shrubs, and other plants from Butori's

property. The parties disputed the location of the property line, and evidence showed that Bosma personally made decisions about work on Lot 7, hired workers, and directed work near the disputed area. A jury found the timber trespass willful or intentional and awarded treble damages.

### PROCEDURAL HISTORY

Butori filed suit in 2020 alleging that defendants knowingly and willfully trespassed onto his property and removed trees, shrubs, and other plants during construction work. The jury found in Butori's favor and determined that the timber trespass was willful or intentional, resulting in an award of treble damages. The Oregon Court of Appeals affirmed the judgment, rejecting defendants' assignments of error concerning hearsay, admission of evidence of a prior settlement agreement, and denial of a directed verdict on Bosma's personal liability.

### DISPOSITION

affirmed

### CASES CITED

- State v. Carlson, 311 Or. 201, 207 n. 7, 808 P.2d 1002 (1991)
- Cyberco Holdings, Inc. v. Con-Way Transportation, 212 Or. App. 576, 587-88, 159 P.3d 359, rev. den., 343 Or. 366 (2007)
- Powers v. Dague, 342 Or. App. 569, 573, 577 P.3d 1161 (2025)
- Allison v. Dolich, 321 Or. App. 721, 725 n. 2, 518 P.3d 591 (2022)
- Cortez v. Nacco Materials Handling Group, 356 Or. 254, 268-69, 337 P.3d 111 (2014)