

# Nelson & Dahle, P.C.

316 North 26th Street Billings, Montana 59101 p: 406.867.7000

DISTRICT COURT

VERDICT. \$5,576, cattle trespass.

A Glasgow jury awarded Gary Westland \$5,576 for damages caused by Robert Winderl's trespassing cattle, \$986 for damages to pasture, 0 for fence repair, and \$3,015 for feed cost and \$1,275 for labor to feed cattle kept in a feedlot because of the pasture damage.

In 11/02 Winderl placed 400 cattle on pasture in Valley Co. owned by Mark & Linda Nielsen pursuant to a verbal agreement for fall grazing. Winderl's cattle were on the Nielsen pasture until 1/16/03 when they were removed. Winderl acknowledged that a certain number escaped from the Nielsen pasture adjacent to property owned by Westland 4 times during the 2 months they were on the Nielsen pasture. The trespassing cattle escaped through fences that had been intentionally cut and gates that had been intentionally left open by unknown persons. Westland claimed that scores to hundreds of Winderl's cattle were present on his property on these 4 occasions which caused damage to his pasture from grazing. Other witnesses testified that there were only a few to 20 trespassing cattle and that any damage was minimal or nonexistent. Westland also claimed damages for fence repair and feed & labor associated with having to keep 100 heifers and 6 bulls in his feedlot for 45 extra days because the pasture had been damaged. Winderl contended that any such delay was limited to 10 days, the pasture had not been damaged to the extent that any delay was necessary, the labor & feed costs were excessive, and Westland's cattle had actually benefitted from their time in the feedlot, offsetting any claimed damages.

Plaintiff's experts: none.

Defendant's expert: Dennis Froeming, Bozeman (rangeland).

Demand, \$9,800; offer, \$1,680. Jury request, \$19,565; jury suggestion, \$1,760. Mediator, Brian Lilletvedt.

Jury deliberated 45 minutes 2nd day, Judge McKeon.

Westland v. Winderl, Valley DV 03 75, 5/19/04.

James Rector, Glasgow, for Westland; Jared Dahle (Nelson & Dahle), Billings, for Winderl (Mountain West Farm Bureau Mutual Ins.).

