

Thompson and Gee v. Stovall (verdict)

DISTRICT COURT

VERDICT: Defense, negligence/nuisance claims relating to landslide that altered course of creek affecting nearby landowners' properties . . . \$100,000 settlement by one landowner.

A Billings jury found 12-0 that Travis Stovall was not negligent and that his irrigation did not constitute a nuisance in relation to a landslide affecting properties of Larry Thompson Sr., Carol Thompson, Larry Thompson Jr., and Richard Gee.

Thompsons own 2 lots each roughly 4 acres in Razor Creek subdivision near Shepherd. Gee owns 60 acres across Crooked Creek. On the morning of 8/8/12, Gee observed that a massive slide on Thompsons' property had occurred – about 3,000 yards of earth that sloughed off the creek bank. The slide blocked Crooked Creek, causing it to revert to an old channel, cutting off Gee's access to about 4 acres of his land. The slide reduced the buildable land on one of Thompsons' lots where it had been permitted for a septic system. On 9/17/12 Thompsons presented nearby landowners Stovall and Tom Sieler with a statement that they were responsible for repairing all damages to their land, and they signed it on the spot. Stovall signed it without viewing the damage because he knew that his water exited off his property and onto Thompsons' property, across it, and into Crooked Creek, and assumed that he had caused the damage. After he viewed the damage, he realized that it occurred 100 yards east of where his water exited onto Thompsons' property. Sieler settled for his policy limits of \$100,000 shortly after suit was filed.

The parties disputed whether irrigation runoff was a cause of the slide, and whose irrigation water would have reached Thompsons' property. Plaintiffs' expert Jim Lovell testified that the washout and creek could be restored for \$360,000. Stovall's experts testified that his irrigation water could not and did not reach the Thompson property over the surface or underground. Ed Everaert testified that subsoil moisture was a substantial factor in the washout. Stovall expert Bill Stene testified that diminution in value to the land was \$0.

Plaintiffs' experts: PE Jim Lovell, Bozeman (stream restoration, deposed).

Defendant's experts: PE Ed Everaert, Bozeman (groundwater and irrigation); PE/ES Scott Swanson, Billings (surface water management); Bill Stene, Billings (real estate value).

Demand, \$300,000 policy limits; offer, \$0. Jury request, \$360,000 plus emotional distress damages; jury suggestion, \$0. Brent Cromley, mediator.

Jury deliberated 3 hours 3rd day; Judge Harris.

Thompson and Gee v. Stovall, Yellowstone DV-14-1322, 4/11/18.

Casey Nixon (Nixon Law Firm), Billings, for Plaintiffs; Randall Nelson (Nelson Law Firm), Billings, for Stovall (Mountain West Farm Bureau Mutual Ins.).