

ENT'D AUG 29 2007

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Ent 953893 Bk 1481 Pg 1028  
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Cache County, UT  
Michael Gleed, Rec. - Filed By SG  
For HANCEY LAW OFFICES

IN THE FIRST JUDICIAL DISTRICT COURT  
CACHE COUNTY, STATE OF UTAH

CATHY O. ANDERSON,

Plaintiff,

v.

K.E.J. & R.S. I. INVESTMENTS,  
MARVIN B. FLUCKIGER, and JOHN &  
JANE DOES, 1-10,

Defendants

AMENDED JUDGMENT QUIETING  
TITLE AND IMPOSING A  
PERMANENT INJUNCTION

Civil No. 020102267

Judge: Willmore

This matter came before the Court for a bench trial on August 25, 2004. Plaintiff appeared and was represented by Mr. Mark Hancey. Defendants appeared and were represented by Mr. Richard Medsker.

The Court initially executed Judgment dated September 7, 2004, recorded September 9, 2004, Entry 871756, Book 1317, Page 489.

Based upon a Motion pursuant to Rule 60A URCP, this Court executes this Amended Judgment correcting the legal description in the initial Judgment from Plat "A" to Plat "E" and otherwise restates the Judgment as follows.

The Court, after personally inspecting the property, reviewing the survey completed by Layne Smith of Knighton & Crow, P.C., reviewing other evidence, and after giving both parties opportunity to be heard, hereby ORDERS, ADJUGES and DECREES as follows.

- 1. Quieting Title.

8/29/07  
AB

The Court hereby quiets title to Plaintiff, Cathy O. Anderson, that real property identified as the "Anderson Parcel" on the Knighton & Crow P.C., dated July 26, 2004, with the legal description as follows:

PART OF LOT 6, BLOCK 26, PLAT "E", LOGAN FARM SURVEY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 6; AND THENCE NORTH 89°22'01" WEST ALONG THE SOUTH LINE OF SAID LOT 6, 165.00 FEET; THENCE NORTH 00°04'16" EAST (NORTH BY RECORD), 222.75 FEET TO A SURVEY MARKER; THENCE NORTH 00°04'50" EAST (NORTH BY RECORD), 222.75 FEET TO THE TRUE POINT OF BEGINNING SAID POINT OF BEGINNING LIES EAST, 25.00 FEET AND NORTH 00°04'50" EAST, 115.22 FEET OF A SURVEY MARKER BEING A SPIKE SET IN ASPHALT;

AND THENCE NORTH 00°04'16" EAST, 207.12 FEET (214.5' BY RECORD) TO THE SOUTH LINE OF STATE ROAD 30;

THENCE SOUTH 88°47'00" EAST ALONG SAID STATE ROAD, 231.00 FEET;

THENCE SOUTH 00°04'16" WEST, 204.77 FEET (SOUTH, 214.5' BY RECORD);

THENCE NORTH 89°22'01" WEST, 230.96 FEET (WEST, 231.00' BY RECORD) TO THE BEGINNING.

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2. Permanent Injunction.

Defendants K.E.J. & R.S.I. Investments & Marvin B. Fluckinger, together with their successors and assigns, are permanently enjoined from:

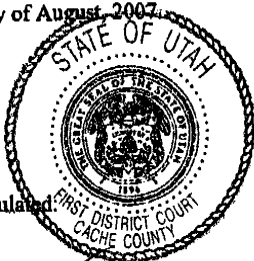
- A. Any act that would reasonably lead to the collapse, failure or damage to any or all of the fence bordering the Anderson Parcel. Such prohibited activities would include but are not limited to, entering upon the Anderson Parcel in any manner, digging a trench or ditch that would cause any portion of the Anderson Parcel to slough off or fall into such ditch or trench or any other act that would affect the lateral support of the Anderson Parcel.
- B. Removal or alteration of any survey markers placed by Knighton & Crow. Any violation of this Permanent Injunction shall be deemed contempt of court subjecting the offending party(ies) to penalties, damages, costs and attorneys fees. This permanent injunction extends to the officers, agents, servants, employees, attorneys and all other persons in active, concert or participation with the restrained.

3. Costs and Attorney's Fees.

The Court finds Plaintiff as the prevailing party. The Court further finds it is proper to exercise its equitable powers to award an amount of attorney's fees to the Plaintiff given the circumstances. Such circumstances include: Defendants digging of a deep trench in the immediate proximity to Plaintiffs fence; Defendants failure to mitigate damages to the fence by filling in the ditch before the collapse of the fence into the trench; and the necessity of Plaintiff to obtain a TRO before reinstalling the fence. Thus, the Court hereby orders a Judgment against the Defendants, jointly and severally in the total amount of \$ 6,491.77 as follows.

- A. Costs in the amount of \$ 4,491.77.
- B. Attorney's Fees in the amount of \$ 2,000.00.

Dated: 21 day of August, 2007.



[Signature]  
District Court Judge

Approved as Stipulated:

[Signature]  
Mark B. Hancey, Attorney for Plaintiff

[Signature]  
Richard Medsker, Attorney for Defendants

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I, CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL FILED IN FIRST JUDICIAL DISTRICT COURTS.  
DATE 8/21/07  
[Signature]  
DEPUTY CLERK

