

Court Advisory

Fourth Court of Appeals
Cadena-Reeves Justice Center
300 Dolorosa, Suite 3200
San Antonio, Texas 78205-3037



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FOR IMMEDIATE RELEASE
May 6, 2011

Fourth Court of Appeals to Hear Oral Argument

The Fourth Court of Appeals will hear oral arguments in two appeals on Wednesday, May 11, 2011, beginning at 9:00 a.m., before the following panel of justices: Chief Justice Catherine Stone, Justice Sandee Bryan Marion, and Justice Rebecca Simmons.

The following cases will be presented:

- (1) *RDG Partnership, Eugene C. Jupe, and Shirley J. Jupe v. George Long* – This appeal arises from a boundary dispute. RDG Partnership, Gene Jupe, and Shirley Jupe contend: (1) the evidence is legally insufficient to establish that George Long held superior title to a 11.21 acre tract of land in Atascosa County known as the West Road Strip; (2) the trial court erred in refusing the Jupes' request for a jury question regarding whether a fence between the property owned by the Jupes and Long was the recognized and accepted boundary; (3) the trial court erred in granting Long's motion for summary judgment with regard to two the Jupes' adverse possession claims; (4) Long was not entitled to recover attorney's fees; and (5) the trial court erred in failing to award attorney's fees to RDG and the Jupes. In a cross-appeal, Long contends: (1) the trial court erred in concluding that Long lacked standing to sue for the encroachment by the Jupes' and RDG's fences into County Road 343; (2) the Jupes have no legal right to preclude Long's use of the South Road; (3) Long had a prescriptive access easement across the South Road as a matter of law or, alternatively, the trial court erred in refusing to submit a proposed jury question regarding Long's prescriptive rights; (4) the trial court erroneously imposed a gate-width and fence-height restriction with regard to Long's use of a deeded easement; (5) the trial court erred in reducing the jury's award of attorney's fees to Long; (6) the trial court erroneously awarded the Jupes conditional appellate attorney's fees; (7) the trial court erroneously assessed one-half of the cost of the court-appointed surveyor against Long; and (8) the trial court erred in failing to enter judgment on the jury's punitive damage award.

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(2) *Bairon Israel Morales v. Rodolfo Mugia Regalado, K & K Repair Service, L.L.C., Goodrich Corporation, and Discount Tire Company of Texas, Inc.* - This appeal arises from Bairon Israel Morales's suit against Michelin and others for injuries he suffered in a work related truck rollover accident. Texas Mutual Insurance Company, the workers' compensation carrier for Morales's employer, paid medical and income benefits to Morales. Michelin settled with Morales, and Texas Mutual sought reimbursement from the settlement proceeds. Morales requested that the trial court reduce Texas Mutual's reimbursement by a proportionate share of his litigation expenses and by his employer's percentage of responsibility for the accident. The trial court denied Morales's requests, and he appeals the trial court's judgment.

The oral arguments will be held in the Fourth Court's Courtroom, Caden-Reeves Justice Center, Third Floor, 300 Dolorosa, San Antonio, Texas.