



Protsman and Little v. H & H Harvesting, et al. (verdict)

DISTRICT COURT

VERDICT: Defense, wildfire started by combine. A Fort Benton jury found 11-1 that one or more of Defendants H&H Harvesting, Jeremy Harding, and Dennis Thomas were not negligent in connection with a wildfire 8/7/12 near Geraldine which damaged land belonging to Charles & Corrine Protsman, Richard & Marlene Protsman, and Lawrence Little.

H&H Harvesting of Byers, Texas, was combining when a fire broke out 100-300 yards behind the combine. H&H attempted to cut the crop ahead of the fire while suppression equipment was summoned, but in high winds they could not contain it. After 2 hours and efforts of 15 neighbors and 20 volunteer firefighters the fire damaged 450 acres including land, ag outbuildings, equipment, pasture, and shelterbelts owned by Plaintiffs. Plaintiffs did not reside on the land. The combine was destroyed by fire in the attempt to fight the fire. Investigation of the header revealed that a sickle had been bent out of the guard track. Although the exact cause of the fire was not known, all believed that the most likely cause was the combine striking a rock.

Plaintiffs contended that H&H had failed to maintain the sickle and guards in good working order and to have an adequate fire suppression plan to respond to the likelihood of fire on a high-risk day. H&H contended that the sickle was likely damaged in the suppression efforts, and that the landowner's plan for fire suppression was reasonable and H&H had not acted negligently.

Plaintiffs sought restoration damages. H&H disputed that restoration damages applied to unoccupied property, and contended that they could only apply to the temporary injury to the shelterbelt.

Plaintiffs' expert: ME/PE Ralph Shirley, Thousand Oaks, Calif.

Defendants' experts: Chris Rallis, Sioux Falls (fire cause/origin); PE Steve Hamers, Ames, Iowa (metallurgy); Jeff Herzog, Fort Benton (custom combining standards); Jim Crancroft, Helena (shelterbelt restoration); agronomist Neal Fehringer, Billings.

Demand, \$400,000; offer, \$175,000. Jury request, \$600,000; jury suggestion, 0. Lee Leveque, mediator.

Jury deliberated 20 minutes 3rd day; Judge Boucher.

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Paul Haffeman (Davis, Hatley, Haffeman & Tighe), Great Falls, and Channing Hartelius (Hartelius, Durocher & Winter), Great Falls, for Plaintiffs; Randall Nelson (Nelson & Dahle), Billings, for Defendants (Texas Farm Bureau Ins.).