

PENNY A. DALL et al.

v.

RENE BROCHU

Submitted on Briefs November 26, 2002
Decided December 10, 2002

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, ALEXANDER,
CALKINS, and LEVY, JJ.

MEMORANDUM OF DECISION

Rene Brochu appeals from a judgment of the Superior Court (Kennebec County, *Studstrup, J.*) determining the placement of the Dall property boundary and awarding the Dalls nominal damages, cost of professional services, and attorney fees pursuant to 14 M.R.S.A. § 7552 (1980 & Supp. 1983), *repealed by* P.L. 1995, ch. 450, § 2 (recodifying under the same section the substance of prior statute with additional provisions). Contrary to Brochu's contentions, the Superior Court neither committed legal error nor made erroneous findings of fact when it: (1) interpreted the Dalls' deeds as encompassing the contested property area, *see*

Wallingford v. Kennedy, 2000 ME 112, ¶ 15, 753 A.2d 493, 497; (2) found the dispute between Brochu and the Dalls began in 1987, *see Palanza v. Lufkin*, 2002 ME 143, ¶ 9, 804 A.2d 1141, 1144; and (3) found Brochu placed fill and cut timber on the Dalls' property, *see id.* The Superior Court, however, erroneously found the Dalls owned their property in 1987, which resulted in the misapplication of section 7552 to award damages for Brochu's act of cutting timber on the Dalls' property in 1987 when it was owned by the Dalls' predecessor. *Baker v. Jandreau*, 642 A.2d 1354, 1355 (Me. 1994).

The entry is:

The judgment is modified to delete the
damage award, and affirmed as modified.

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