

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
NASSAU COUNTY, FLORIDA.

CASE NO.: 02-6-CA

DIVISION: A

**DONALD JOYNER
and MARSHA JOYNER,**

Plaintiffs,

vs.

**JACK COKER
and SUSAN COKER,**

Defendants.

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JACKSONVILLE, FLORIDA

FINAL JUDGMENT

This matter came on to be heard on Plaintiffs' Complaint seeking damages and injunctive relief for trespass and nuisance arising from the Defendants' construction of a ramp and floating dock along Egans Creek which touches both Plaintiffs' and Defendants' adjoining properties. The Court considered the testimony of the parties and various witnesses along with the argument of counsel. The Court also conducted a view of the parties' premises and observed the respective views allowed from each.

The meanderings of Egans Creek and the desire of neighbors to nestle as close and comfortably thereto as possible creates this dispute. The problem of fairly accommodating these natural interests has been addressed by the Courts of our State because mathematics and geometry fail in their ability to consider such intangible rights as are in dispute here: the right to an unobstructed view of a channel.

The evidence adduced establishes that the Coker's constructed a dock on their property along Egans Creek which blocks in part what had been a completely unobstructed view of Egans Creek and beyond from the property of their neighbors, the Joyners. It is undisputed that the parties are adjacent land owners and established by the evidence that they both hold title to lands to which riparian rights attach. The implication that deceit and artifice was employed by the Coker's in the permit application process associated with the dock's construction is rejected by the Court.

It is also clear from the record that establishing riparian lines commensurate with the parties' rights at this contested and curving portion of the creek by simply extending upland property lines would effect an inequitable distribution of all riparian rights, not only to the parties to this litigation, but to adjacent property owners up and down creek.

Accordingly, the Court adopts as appropriate and establishes hereby the riparian lines admitted into evidence through Defendant's Exhibit 10 which it is attached and incorporated herein.

The Court's fixing of said lines protects in both the Joyner's and Coker's rights of ingress, egress, boating, bathing, fishing and "as near as practicable" an unobstructed view of Egans Creek, including several completely unobstructed views from the Joyners' property, with due regard to the relative rights of adjacent upland land owners.

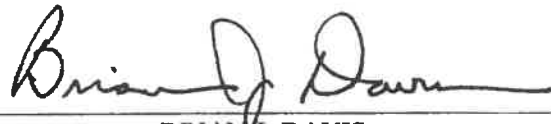
Accordingly, the Court finds the Plaintiffs' have failed to establish a prima facie case as to each of the Counts of its complaint and is not entitled to the relief sought therein, and it is

ORDERED AND ADJUDGED

Plaintiffs shall take nothing by this action and Defendants shall go hence without day.

DONE AND ORDERED in Chambers at Fernandina Beach, Nassau County, Florida, this 22nd

day of January, 2004.



BRIAN J. DAVIS
Circuit Judge

Copies to:

Arthur I. Jacobs, Esq.
P. O. Box 1110
Fernandina Beach, FL 32035-1110
(904) 261-3693
Attorney for Plaintiffs

Wayne Flowers, Esq.
9428 Baymeadows Rd., Suite #625
Jacksonville, FL 32256
(904) 737-2020
Attorney for Defendants

