

DA 17-0579

IN THE SUPREME COURT OF THE STATE OF MONTANA

2018 MT 108N

DOUGLAS and CHRISTINA ARDARY, husband and wife,

Plaintiffs and Appellants,

v.

JAMES and MAIDA PARIS, husband and wife,

Defendants and Appellees.

APPEAL FROM: District Court of the First Judicial District,
In and For the County of Lewis and Clark, Cause No. BDV-2015-605
Honorable Michael F. McMahon, Presiding Judge

COUNSEL OF RECORD:

For Appellants:

Mark Lancaster, Lucas Hamilton, Luxan & Murfitt, PLLP, Helena,
Montana

For Appellees:

Burt Ward, Jackson, Murdo & Grant, P.C., Helena, Montana

Submitted on Briefs: April 18, 2018

Decided: May 1, 2018

Filed:



Clerk

Justice Ingrid Gustafson delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(c), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 This case involves a dispute between feuding neighbors regarding parking in a cul-de-sac. Ardarys appeal from the May 19 and August 31, 2017 orders of the First Judicial District, denying their motion to amend their complaint and granting summary judgment to Parises respectively. Having reviewed the record, we find the District Court did not abuse its discretion by denying Ardarys' untimely motion to amend nor did it err in granting summary judgment to Parises. Regarding the primary issue, the District Court determined both parties have access to and use of the subject cul-de-sac, but such does not entitle either party to an empty cul-de-sac. Specifically, the District Court found "[v]ehicles reasonably parked along the interior perimeter of the cul-de-sac do not constitute an obstruction as prohibited by the covenants." As asserted by Parises, implicit in the concept of "reasonably parked" is compliance with § 61-8-355(2), MCA, which requires parking parallel (not perpendicular) to the curb or edge of the roadway in the direction of authorized traffic movement, with the vehicle's right- or left-hand wheels (depending on the traffic movement direction) within 18 inches of the curb or as close as practicable to the edge of the shoulder (precluding double parking of vehicles side-by-side parallel to the curb or roadway edge).

¶3 We have determined to decide this case pursuant to Section I, Paragraph 3(c) of our Internal Operating Rules, which provides for memorandum opinions. In the opinion of the Court, the case presents a question controlled by settled law or by the clear application of applicable standards of review.

¶4 Affirmed.

/S/ INGRID GUSTAFSON

We concur:

/S/ DIRK M. SANDEFUR

/S/ LAURIE McKINNON

/S/ BETH BAKER

/S/ JAMES JEREMIAH SHEA