

SYNOPSIS OF THE CASE

2011 MT 292; DA 10-0651: JAMES WYATT SLACK and JOSEPHINE L. SLACK, individually and on behalf of their minor children, S.S., L.S., and J.S., Plaintiffs, Appellees, and Cross-Appellants, vs. **LEWIS AND CLARK COUNTY**, Defendant, Appellant, and Cross-Appellee.¹

The Slacks sued Lewis and Clark County for damages for the County's alleged failure to comply with its statutory obligation, pursuant to § 75-10-1306, MCA, to notify them that the home they purchased in November 2005 was once the site of a clandestine methamphetamine laboratory. After a trial, the jury found the County was negligent and awarded the Slacks \$563,592 in damages. The County appealed. The Slacks cross-appealed the District Court's denial of their motion for attorneys' fees.

The Montana Supreme Court affirmed on all issues. First, the Court held that the County waived all the issues it raised on appeal. Because the issues were not adequately raised in the District Court, the Court would not consider the County's arguments made for the first time on appeal. Second, the Court affirmed the denial of Slack's motion for attorneys' fees. The Court held that including attorneys' fees in a bill of costs does not entitle a party to recover the attorneys' fees. Finally, the Court held the County's defense was not frivolous or pursued in bad faith under § 25-10-711, MCA; the defense was just not raised properly.

¹ This synopsis has been prepared for the convenience of the reader. It constitutes no part of the Opinion of the Court and may not be cited as precedent.