

ADRIAN CRONKHITE

v.

DAWN MARIE SCHALLER et al.

Submitted on Briefs June 27, 2012
Decided July 3, 2012

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

Adrian Cronkhite appeals from the Superior Court's (Penobscot County, *Anderson, J.*) entry of summary judgment in favor of Dawn Marie and Jeffrey Schaller (collectively, the Schallers) on two counts of Cronkhite's complaint seeking to quiet title and seeking judgment declaring the boundary line between the parties' abutting properties. Cronkhite argues that the court abused its discretion in granting the Schallers' motion to strike, as untimely, his expert witness designation. Cronkhite also argues that the court erred in granting summary judgment because (1) his proffered expert survey of the property, which established the alleged boundary line, was admissible pursuant to the business records exception to the hearsay rule, M.R. Evid. 803(6), and (2) in the absence of the survey, the facts generated a genuine issue of material fact regarding the boundary line.

Contrary to Cronkhite's assertions, the court did not err in granting summary judgment for the Schallers because, viewing the facts in the light most favorable to Cronkhite, (1) Cronkhite failed to establish the necessary foundation to admit the survey pursuant to the business records exception, *see Beneficial Me. Inc. v. Carter*, 2011 ME 77, ¶ 10, 25 A.3d 96, and (2) the evidence did not generate a

genuine issue of material fact regarding the location of the boundary line, *see id.* ¶ 11. Additionally, the court acted within its discretion in granting the Schallers' motion to strike Cronkhite's untimely expert witness designation. *See Mitchell v. Kieliszek*, 2006 ME 70, ¶ 19, 900 A.2d 719.

The entry is:

Judgment affirmed.

On the briefs:

William P. Logan, Esq., Irwin, Tardy & Morris, Newport, for appellant
Adrian Cronkhite

Timothy A. Pease, Esq., Rudman Winchell, Bangor, for appellees Dawn
Marie Schaller and Jeffrey Schaller.