

BRUCE S. DELESKEY

v.

CAROL AUGER et al.

Submitted on Briefs November 3, 2004

Decided December 2, 2004

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

MEMORANDUM OF DECISION

Bruce S. Deleskey appeals from a judgment in favor of Carol and Lawrence Auger, entered in the Superior Court (Kennebec County, *Studstrup, J.*) following a jury trial. Contrary to Deleskey's contentions, the jury was not compelled to find that Deleskey's easement is located over and across the Augers' driveway. *See Rand v. Bath Iron Works Corp.*, 2003 ME 122, ¶ 10, 832 A.2d 771, 773. Nor does the record compel a finding by the trial court that Deleskey had proven the elements of a prescriptive easement. *See S.D. Warren Co. v. Vernon*, 1997 ME 161, ¶ 5, 697 A.2d 1280, 1282.

Contrary to Deleskey's other contentions, the court's use of a special jury verdict form, not objected to at trial, did not constitute obvious error, *see Morey v. Stratton*, 2000 ME 147, ¶ 8, 756 A.2d 496, 498-99; the court's decision to allow the jury to use a ruler during its deliberations was within its discretion, *see United States v. Conley*, 186 F.3d 7, 23 (1st Cir. 1999); and the court's admission of evidence that Deleskey had purchased an additional lot of land, and the comment on that evidence by the attorney for the Augers, did not constitute obvious error, *see Grover v. Minette Mills, Inc.*, 638 A.2d 712, 717 n.4 (Me. 1994); *Rich v. Fuller*, 666 A.2d 71, 76 (Me. 1995).

The entry is:

Judgment affirmed.

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