

STATE OF MAINE
SAGadahoc, ss

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. RE-04-002

NM-5AG-01/05

JONATHAN PEABODY, as
TRUSTEE for the MARYCLIFF
REALTY TRUST,

Plaintiff

v.

ORDER ON MOTION FOR
SUMMARY JUDGMENT

WILLIAM H. FINES, III,

Defendant

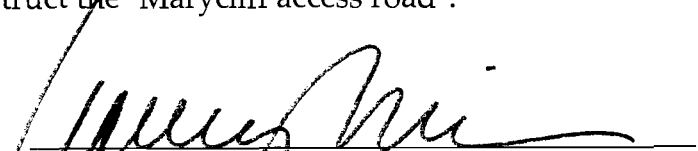
The plaintiff filed a motion for summary judgment¹ and included the proper notice. See M.R. Civ. P. 7(b)(1)(A) & (B). The defendant's responses to the plaintiff's statement of material facts are not supported by record citations. See M.R. Civ. P. 56(h)(2). The plaintiff's statements of material facts are supported by record citations and are deemed admitted. See M.R. Civ. P. 56(h)(4).

The plaintiff's motion for summary judgment is granted. Judgment is entered in favor of the plaintiff and against the defendant on the plaintiff's complaint. The court declares the following:

1. the plaintiff has an easement by prescription over the property of the defendant via the "Marycliff access road";
2. the "Marycliff access road" may be used by the plaintiff, his family, and social and business invitees to travel to and from the "Marycliff property";
3. the plaintiff has the right to maintain and repair the "Marycliff access road";

4. the plaintiff's rights to use the "Marycliff access road" are not subject to or limited by any right of the defendant to place any gate or barrier in or across the "Marycliff access road" or otherwise to obstruct the "Marycliff access road".

Date: August 30, 2005



Nancy Mills
Justice, Superior Court

¹ This case was presented to the undersigned justice and taken under advisement on August 24, 2005.