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DEDICATION - LOUISIANA

Jefferson Parish School Board v. TimBrian LLC

Court of Appeal of Louisiana, Fifth Circuit - May 9, 2019 - So.3d - 2019 WL 2052336 - 18-349 (La.App. 5 Cir. 5/9/19)

School board filed action against business owner, seeking to annul tax sale of property business owner had acquired in tax sale, and filed supplemental and amending petition adding parish as defendant.

The District Court granted summary judgment to parish and denied business owner's motion for summary judgment. Following dismissal of initial appeal, business owner appealed.

The Court of Appeal held that:

- School board sufficiently alleged cause of action, and
- Genuine issues of material fact precluded summary judgment.

School board sufficiently alleged cause of action against business owners who purchased property adjacent to school in tax sale; although school board acknowledged it was not owner of property, it asserted various property interests including servitudes of use, passage, right of way and usufruct resulting from its actual possession of the property, and thus had a legal interest in the subject matter of the litigation.

Genuine issues of material fact as to whether property the school used as a playground had been donated for public use as "then North Metairie Road" by the original owner in 1837 precluded summary judgment in action brought by school district to invalidate purchase of property by business owners at tax sale; expert reports differed on whether "North Metairie Road" existed, or whether the 1837 Act of Deposit was a formal, statutory or implied dedication.