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H E DUFF V W P MATTHEWS AND PAUL H PFEIFER EBOOKS 2019



Author: The Texas Court of Criminal Appeals

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This is a suit by respondents as plaintiffs in the trial court against petitioners, as defendant, to establish a roadway over the petitioner-defendants land. The parties will be referred to as they were in the trial court. Plaintiffs sought to establish such roadway by prescription, that it was a public road, and by necessity. The jury findings were against plaintiffs on their theory of prescription and a public roadway and the case reaches this Court only on the necessity theory. The trial was to a jury, and upon the rendition of a verdict the trial court disregarded the jurys findings in favor of defendant on his defense of the three year statute of limitation [Article 5507, Vernons Civ. Stat. of Texas] and rendered judgment for plaintiffs, thus establishing the roadway across defendants lands at a place to be laid out by three commissioners appointed by the court in accordance with the courts judgment. Upon appeal to the Court of Civil Appeals this judgment was affirmed. 300 S.W.2d 679.

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