

## Judge orders Binkleys to temporarily remove railroad tracks near Gold Dredge 8

Charles Dickens invented the case “Jarndyce vs Jarndyce,” a legal dispute that goes on for generations, the model of an intractable disagreement.

“This scarecrow of a suit has, over the course of time, become so complicated, that no man alive knows what it means,’ he wrote in “Bleak House.”

In Fairbanks, the case of “Godspeed Properties vs. Reeves, John et al. ,” which officially began on Aug. 1, 2012, is the model of an intractable disagreement, though the participants know full well what it means.

So far, there are more than 450 entries in the docket, with more to come in the fight between the Binkley family, the owners of the Anchorage Daily News and Gold Dredge 8, and John Reeves, the former owner of Gold Dredge 8, who developed it into a tourist attraction in the 1980s.

At a three-day trial in 2013, Reeves said that the Binkleys "came in like a thief and stole" his property rights by blocking the road.

"I didn't try and steal the easement," John Binkley said at the trial, adding that he was protecting his family's property rights.

Last week Superior Court Judge Paul Lyle ordered the Binkleys to temporarily remove the portion of their tourist railroad at Gold Dredge No. 8 that crosses a 100-foot easement owned by Reeves near the dredge.

The Binkleys do not plan to use the tourist railroad this summer, the company told the court.

This week, Lyle ordered the Binkleys to pay \$158,278 to Reeves, since he was the prevailing party in the case. Court rules allow the winning party to recoup about one-third of its attorney fees from the other side.

The Binkleys claimed they were the winning party, asserting that the main issue of the case was the attempt by Reeves to “stop Godspeed from using the easement for the Gold Dredge 8 tour.”

The judge rejected that claim, saying the existence of the easement was the central issue and that Reeves had prevailed.

For his part, Reeves has until next March 1 to build a road, no more than 60 feet wide, across the property. The Binkley company can then reinstall the railroad tracks on the two crossings, along with manually operated wooden gates.

“The gates will be operated by Godspeed employees to block the road only when Godspeed’s small-gauge railroad crosses the road, and will be immediately re-opened to allow free flow of road traffic after the railway cars clear the crossings,” Lyle’s order said.

Reeves has said he intends to make it a public road. Under the court order the Binkleys would have to cover whatever extra costs the railroad would create in allowing that to happen.

But it's too soon to say what will take place and when. Elements of the dispute are headed back to the Alaska Supreme Court, as the two sides are not giving up or giving in.

[“American Surveyor” magazine](#) published a technical account in February of the issues, written by veteran Fairbanks surveyor Martin Gutoski.

Gutoski was a platting officer at the Fairbanks North Star Borough when he processed an application by Reeves in 2012 to subdivide land near the dredge. Reeves wanted to build what he called “Landfill Road,” but the Binkleys installed the railroad on the property, while the subdivision application was under review. He was called on as an expert witness at the trial.

The convoluted legal questions about land rights and what it takes to preserve or extinguish an easement or a portion of an easement when physical evidence no longer exists are enough to create a mind-numbing exercise. In the meantime, the case goes on, like Jarndyce vs. Jarndyce.

“The longstanding battle between these two titans of the tourist industry is akin to the old Japanese movies of Godzilla versus Rodan. No matter who wins Tokyo still gets trampled in the process after many sequels,” Gutoski wrote.

“Tokyo may rise from the ashes but the rebuild may take another battle before the train and trucks can safely cross.”

