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## Horseshoe Falls Pres., Inc. v. Flynn No. W.C. 98-384, 2006 R.I. Super. Lexis 6 (R.I. Super. Ct. 2006)

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**RHODE ISLAND**

**Horseshoe Falls Pres., Inc. v. Flynn, No. W.C. 98-384, 2006 R.I. Super. Lexis 6 (R.I. Super. Ct. 2006)** (holding Flynn owned the mill property and therefore owned the water rights for all water flowing to the mill consistent with the original grantor's intent).

Horseshoe Falls Preservation ("Preservation") requested that the Superior Court of Rhode Island remove a cloud on title from its parcel of an old mill property, and argued that Flynn slandered the title by claiming ownership of Preservation's water rights. The mill company initially owned all of the land involved but subsequently divided the land such that both parties held title to portions of the property. Ultimately, the parties sought to determine who owned the water rights associated with the different parcels of the mill property.

The owner of the original mill divided the property into three parcels retaining all of the water rights with the property containing the actual mill, as the waterway powered the mill. Over time, subsequent conveyances further divided the property, each time dividing it differently. The inconsistency in divisions led to the present dispute. Preservation has title to a portion of the property, and they claim to own the water rights associated with that property. The court held, although Preservation's deed seemingly conveys water rights based upon the previous conveyances, it was the original grantor's intent to retain all water rights with the mill itself. Therefore, because Flynn owns title to the mill property he owns the water rights for the water flowing to the mill. Furthermore, Flynn did not commit slander against Preservation because he did not falsely lay claim to any property because he is the rightful owner to the water rights.

*Diane O'Neil*

**TEXAS**

**Hyde v. Ray, 181 S.W.3d 835 (Tex. App. 2005)** (holding the airport that provided sewer service for compensation was a retail public utility, that disputes about service fell under the exclusive jurisdiction of the Texas Commission on Environmental Quality, and that the trial court lacked jurisdiction to issue an injunction compelling restoration of water service).

Jimmy Ray purchased a hangar in 1991 at the Northwest Regional Airport in Roanoke, Texas, which Charles Hyde and his companies, including Aviation Utilities Services, Inc ("AUSI") owned and operated. Ray constructed an apartment in the hangar and occupied it as his permanent residence. Ray used water from an AUSI-operated well