

## ***Press Release***

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## **Indiana Agricultural Law Foundation Assists with Fence Law Case**

Indianapolis, IN, May 9, 2016 – An amicus brief written by the Indiana Agricultural Law Foundation may help a farmer get a fence fixed and clarified for all courts how the state’s fence law is written.

“The reason the foundation supported *Belork v. Latimer* was simple: Indiana’s partition fence law statute is clear and unambiguous,” said John Shoup, executive director of foundation. “Changes to existing, well-settled law should come from the legislature, not the judiciary.”

In the case, Starke County cattle farmer John Belork rebuilt half of a partition fence between his land and his grain-farming neighbors. He asked the neighbors to rebuild the other half. They refused, and township trustee, Robin Latimer, refused to require them to rebuild. Belork went to his local trial court with his case. The trial court ruled in favor of the neighbors, who had experienced damage to their fields when Belork’s cattle would escape, because they did not “use” the fence.

The Indiana Partition Fence Law (Indiana Code §32-26-9) requires adjacent landowners to share the burden of building partition fences, as long as at least one property is agricultural land located outside town or city limits. There is no requirement that both property owners benefit from or use the fence.

Shoup added that a partition is a “use” under Indiana’s partition fence law, and there is no statutory requirement that adjoining landowners both raise livestock.

Belork appealed to the Indiana Court of Appeals, where he was initially denied. He petitioned for a rehearing. The court agreed to the rehearing and allowed the foundation to file an amicus curiae (“friend of the court”) brief in support of his petition. The foundation’s brief explained the history and use of the law.

“After considering the arguments we offered, the Indiana Court of Appeals reversed their own contrary decision. This is an extremely rare occurrence,” Shoup said.

The appeals court ruled that the neighbors had misinterpreted the law, and that both parties having “use” of the fence was not required. In fact, the law is very specific that use or benefit of the fence is not a factor in determining how a fence is maintained. One judge dissented, arguing

that the majority gave too much weight to the brief and should have relied more on arguments presented by the parties.

Belork's neighbors have the opportunity to appeal the decision.

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***About INAgLaw:** The Indiana Agricultural Law Foundation is a 501(c)(3) charitable organization established in 2005 by Indiana Farm Bureau, Inc. Indiana farmers operate in a complex legal environment. Federal, state and local laws, statutes and regulations present difficult challenges to Indiana agriculture. Navigating the legal landscape has become an essential facet of modern agriculture. Through its existence, INAgLaw has effectively promoted a better understanding of legal issues facing Indiana agriculture through support of precedent-setting litigation and educational programming.*