

Illinois Appellate Court Affirms Distribution of Class Action Settlement Fund Resulting from Gasoline Release

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The Appellate Court of Illinois, Third District, recently issued an opinion in *Quick v. Shell Oil Co., No. 3-09-0987*, which concerned a class action settlement arising out of a release of thousands of gallons of gasoline from a Shell pipeline onto the Danhausen farm in Limestone Township, Kankakee County, Illinois.

The settlement agreement provided a fund of \$26 million to be distributed by a settlement administrator, who in turn consulted a licensed real estate appraiser, Jay M. Heap, to determine the diminution in value of property in the class area resulting from the gasoline release. The trial court approved the settlement administrator's recommendation to distribute \$120,489 of the settlement fund to the Danhausen estate.

The Danhausen estate filed an appeal, arguing that an award of \$1,172,300 for diminution in value and \$3,516,900 for nuisance and interference with quiet enjoyment would be more appropriate. The estate based its calculations on its own appraiser, Richard F. Hansen. The appellate court disagreed and affirmed the trial court's order:

"Regarding the award for diminution in value of the Danhausen estate property, the court found Heap's appraisal to be worthy of greater weight than that of Hansen, due to Heap's credentials and experience. We have reviewed both Heap's and Hansen's appraisals and cannot find that the trial court's decision in this regard was arbitrary, fanciful or unreasonable. In addition, considering the large number of claimants and the lengthy time period that has elapsed since the gasoline spill, we cannot find that the trial court's decision to approve the Settlement Administrator's use of a formulaic approach to approximate agricultural property values and the diminution in value of those pieces of property was unfair, unreasonable, or inadequate. Thus, the trial court's decision to approve the Settlement Administrator's award to the Danhausen estate for diminution in value was not an abuse of discretion.

"We also conclude that the trial court did not abuse its discretion by approving the recommended distribution to the Danhausen estate for nuisance and interference with quiet enjoyment of its property. The Danhausen estate maintains it is entitled to more than \$3 million for this claim. However, it does not provide any legal or factual support for its claim. On the other hand, the Settlement Administrator's formula for compensating Core Area property owners for nuisance and interference with quiet enjoyment of their property, taken as a whole, was fair, reasonable and adequate. While it is undisputed that the gasoline spill occurred on the Danhausen estate's property, it did not present adequate evidence that it was entitled to a larger distribution of the settlement fund for these damages."

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