

Public Utilities Act Does Not Preempt Property Owner's Rights To Sue Utility For Wrongful Tree Cutting

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Plaintiffs owned property abutting railroad tracks. To block the view of trains and noise, they planted trees and other vegetation. Com Ed periodically trimmed the trees to prevent interference with its lines. However, Com Ed then decided to remove plaintiff's trees as well as those of other property owners. A private tree-cutting service requested permission to remove pine trees, but plaintiffs refused. Nonetheless, they cut down the trees without authorization. Plaintiffs then filed a class action alleging trespass, conversion, and violation of the Wrongful Tree-Cutting Act. The trial court dismissed the complaint based upon §8-505.1 of the Public Utilities Act which granted the ICC exclusive jurisdiction to investigate and hear complaints against the utility.

The First District reversed. It noted inconsistent language in that the ICC was given exclusive jurisdiction, but it also said the provision would not "in any way diminish or replace other civil or administrative remedies..." The court concluded the Act did not suggest a legislative intent to deprive tort victims of common law remedies. ***Durica v. Commonwealth Edison Co.***, 2015 IL App (1st) 140076

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