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United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	William J. Hibbler	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	06 C 2196	DATE	9/23/08
CASE TITLE	Cannata et. al., v. Forest Preserve District of Dupage County, et. al		

DOCKET ENTRY TEXT:

For the reasons set forth below, the defendants Motion for Summary Judgment on all claims (doc. #154) is DENIED.

[For further details see text below.]  Docketing to mail notices

STATEMENT

If the plaintiffs are to prevail in this case, they must establish that waste from the Landfill caused the contamination of the class area. The defendants assert the only way plaintiffs can meet this burden is by relying on the expert testimony of Dr. Neil Williams, and if this testimony is excluded the plaintiffs' case falls apart. Thus, the defendants' motion for summary judgment is almost entirely predicated on the exclusion of the plaintiffs' expert. The Court, however, has denied the defendants' motion to bar Williams's testimony. Therefore, the bulk of defendants' summary judgment arguments have been rendered moot.

The defendants devote approximately two pages to arguing that even if Williams is allowed to testify, they are entitled to summary judgment. For example, defendants contend no substances found at the landfill have been detected in the class area at elevated concentrations. Moreover, defendants argue no carcinogens were released into the underground aquifer that connects the landfill with the class area. The plaintiffs deny these assertions. Certainly, the defendants possess evidence to rebut the claims in the plaintiffs' complaint. But, a brick is not a wall, and both sides have presented plausible explanations for the presence of contaminants in the class area. See, e.g., Expert report of Dr. Williams; Expert report of Charles Andrews. Accordingly, the Court can not resolve this case on summary judgment.

U.S. DISTRICT COURT

Courtroom Deputy Initials:



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FILED-2008