

APPELLATE COURT OF ILLINOIS, FOURTH DISTRICT

D'Agnolo v. Catholic Cemetery Association of Peoria

D’Agnolo v. Catholic Cemetery Ass’n of Peoria, 2026 IL App (4th) 250350 · No. 4-25-0350 · Decided February 2, 2026

SUMMARY

The Illinois Appellate Court, Fourth District, answered a certified question in the negative, holding that a burial easement provision requiring the easement owner’s written permission before disinterment does not conflict with the Illinois Disposition of Remains Act, Vital Records Act, or Crematory Regulatory Act. The court concluded that the statutes do not expressly or implicitly prohibit such contractual provisions, while declining to address other potential public-policy or legal challenges outside the certified question.

CASE DETAILS

COURT	Appellate Court of Illinois, Fourth District
WRITING FOR THE COURT	Justice Lannerd; Justice Zenoff; Justice DeArmond
JURISDICTION	Illinois Appellate Court, Fourth District
DECIDED	February 2, 2026
DOCKET	4-25-0350
DISPOSITION	other
PROCEDURAL POSTURE	Interlocutory appeal under Illinois Supreme Court Rule 308(a) from certified questions arising from the circuit court's summary determination that the cemetery breached a burial easement agreement and summary judgment rejecting defendants' statutory-immunity affirmative defense.
STANDARD OF REVIEW	De novo review applies to a certified question of law under Illinois Supreme Court Rule 308. The appellate court is limited to answering the specific certified legal question and generally lacks jurisdiction to review the propriety of the underlying interlocutory order.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Catholic Cemetery Association of Peoria, Catholic Diocese of Peoria v. Clorinda D’Agnolo

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QUESTIONS PRESENTED

1. Whether a provision in a burial easement agreement prohibiting disinterment without the written permission of the easement owner conflicts with section 5 of the Disposition of Remains Act, section 21(5) of the Vital Records Act, or section 20(a)(1)(E) of the Crematory Regulatory Act such that the provision is invalid.
2. Whether the appellate court could review the propriety of the circuit court's underlying summary determination and summary judgment order in this Rule 308 interlocutory appeal.

HOLDINGS

1. A provision in a burial easement agreement requiring the written permission of the easement owner before disinterment does not conflict with section 5 of the Disposition of Remains Act, section 21(5) of the Vital Records Act, or section 20(a)(1)(E) of the Crematory Regulatory Act, and is not invalid or unenforceable under those statutes.
2. In a Rule 308 appeal, the appellate court must answer the certified question of law and generally may not review the propriety of the underlying interlocutory order.

KEY QUOTATIONS

“Because this court can identify no direct or indirect conflict between (1) a provision in a burial easement agreement prohibiting disinterment without the written permission of the easement owner and (2) any of the statutes identified in the instant certified question, we conclude such a provision is not invalid or unenforceable under said statutes.” (at 14)

“In reaching this conclusion, we emphasize this decision is limited to the scope of the certified question and this court expresses no opinion as to whether such a provision is otherwise violative of public policy or unenforceable under any other legal theory not identified in the certified question.” (at 14)

FACTUAL BACKGROUND

Clorinda D’Agnolo purchased a double gravesite from Catholic Cemetery Association of Peoria and arranged for the 2015 burial of her fiancé, David M. Lipari. In 2018, Lipari's children obtained governmental permits to disinter and cremate his remains, and the remains were disinterred without D’Agnolo's advance notice or written permission. The cemetery agreement incorporated diocesan rules requiring written permission or an order from the owner of the grave easement before disinterment.

PROCEDURAL HISTORY

D'Agnolo sued the cemetery association and the Catholic Diocese of Peoria after remains interred in a purchased double gravesite were disinterred without her knowledge or written permission. The circuit court determined that the parties' easement agreement required the cemetery to obtain D'Agnolo's written permission before disinterment and granted summary judgment against defendants' affirmative defense based on the Disposition of Remains Act. The circuit court certified two questions under Rule 308; the appellate court allowed an appeal on one question concerning whether the contractual permission provision conflicted with three Illinois statutes. The appellate court answered that certified question in the negative and declined to review the propriety of the underlying order.

DISPOSITION

other

REMAND INSTRUCTIONS

The court answered the certified question in the negative and returned the parties to the circuit court without reviewing the propriety of the underlying order.

CASES CITED

- Walker v. Carnival Cruise Lines, Inc., 383 Ill. App. 3d 129, 133 (2008)
- Abrams v. Oak Lawn-Hometown Middle School, 2014 IL App (1st) 132987, ¶ 5
- Combs v. Schmidt, 2015 IL App (2d) 131053, ¶¶ 6-10
- In re Estate of Luccio, 2012 IL App (1st) 121153, ¶ 17
- Sibley v. Health & Hospitals' Governing Comm'n of Cook County, 22 Ill. App. 3d 632, 637-38 (1974)
- Swavely v. Freeway Ford Truck Sales, Inc., 298 Ill. App. 3d 969, 976-77 (1998)
- American Buyers Club of Mt. Vernon, Illinois, Inc. v. Grayling, 53 Ill. App. 3d 611, 613 (1977)
- O'Hara v. Ahlgren, Blumenfeld & Kempster, 127 Ill. 2d 333, 341-42 (1989)