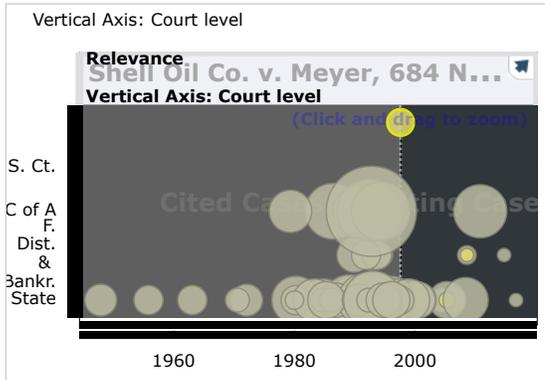


## Shell Oil Co. v. Meyer, 684 N.E.2d 504 (Ind. App. 1997)

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### **PARKS HIWAY ENTERPRISES v. CEM LEASING, 995 P.2d 657 (Alaska 2000)**

February 4, 2000

Negative treatment indicated in a citation in this case

...construed in accordance with their common usage." McDowell v. State, 957 P.2d 965, 970 (Alaska 1998) (quoting Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co., 746 P.2d 896, 905 (Alaska 1987)). 20. We decline Parks Hiway's invitation to follow **Shell Oil Co. v. Meyer, 684 N.E.2d 504 (Ind.App. 1997), rev'd in part, 705 N.E.2d 962 (Ind.1998)**. 21. AS 46.03.822(a)(5) (emphasis added). 22. "Where a statute's meaning appears clear and...

### **City of Jeffersonville v. Env'tl. Mgmt. Corp. (Ind. App. 2016)**

September 21, 2016

the burden of proving an appropriate allocation of fees between issues for which attorney's fees may be assessed and those for which they may not. Id. "While a perfect breakdown is neither realistic nor expected, a reasonable, good faith effort is anticipated." Id. (quoting **Shell Oil Co. v. Meyer, 684 N.E.2d 504, 525 (Ind. Ct. App. 1997), aff'd in relevant part, 705 N.E.2d 962, 981 (Ind. 1998)**). Moreover, "[t]he trial judge possesses personal expertise that he or she may use when determining Page 11 reasonable attorney's fees." Weiss v. Harper, 803 N.E.2d 201, 208 (Ind. Ct. App. 2003). ...

### **Prime Mortgage Usa, Inc. v. Nichols, 885 N.E.2d 628 (Ind. App. 2008)**

April 23, 2008

...which attorney fees may be assessed and those for which they may not." Nance v. Miami Sand & Gravel, LLC, 825 N.E.2d 826, 838 (Ind.Ct.App.2005), trans. denied. "While a perfect breakdown is neither realistic nor expected, a reasonable, good faith effort is anticipated." Id. (quoting **Shell Oil Co. v. Meyer, 684 N.E.2d 504, 524-25 (Ind.Ct.App.1997), aff'd in relevant part, 705 N.E.2d 962 (Ind.1998)**). "The 'United States Rule' is that parties bear their own fees in the absence of a statute or a basis in quantum meruit for..."

### **Wilcox Lumber Co., Inc. v. Andersons, Inc., 848 N.E.2d 1169 (Ind. App. 2006)**

June 16, 2006

...to support the award, and the uncontested evidence, in the form of Andersons' counsel's affidavit, establishes that the attorney fees are reasonable. Furthermore, although a hearing on attorney fees is advisable in complex cases, it is not required in routine cases such as the instant one. **See Shell Oil Company v. Meyer, 684 N.E.2d 504, 523 (Ind.Ct.App.1997), affirmed in pertinent part, 698 N.E.2d 1183 (Ind.1998)**. Wilcox's final argument is based on In re Estate of Inlow, 735 N.E.2d 240, 253 Page 1172 (Ind.Ct.App.2000), in...

### **In re Estate of Inlow, 735 N.E.2d 240 (Ind. App. 2000)**

September 6, 2000

...fee applicant. Kellogg v. City of Gary, 562 N.E.2d 685, 717 (Ind.1990). The criteria listed in Professional Conduct Rule 1.5(a) are to be considered in determining the reasonable hourly rate for calculation of the lodestar, and should not also be used to justify the application of a multiplier. **See Shell Oil Co. v. Meyer, 684 N.E.2d 504, 526-27 (Ind.Ct.App.1997), aff'd in relevant part, 705 N.E.2d 962 (Ind. 1998)**. Here, the trial court first calculated the number of hours worked multiplied by the applicable hourly rates at \$705,247.50,...

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### Citing Law Reviews

#### **Issue 1 - (2001): Symposium: Guns as a Consumer Product: New Public Health and Legal Strategies to Reduce Gun Violence Municipalities' Suits against Gun Manufacturers - Legal Folly 4 J. Health Care L. & Pol'y 13 (2001) (Journal of Health Care Law and Policy)**

law would "become a monster that would devour in one gulp the entire law of tort."152 Other courts have agreed.153 143. See, e.g., Indiana Pipe Line Co. v. Christensen, 143 N.E. 596 (Ind. 1924); Shell Oil Co. v. Meyer, **684 N.E.2d 504** (Ind. Ct. App. 1997); New Jersey Dep't of Env't. Protection v. Ventron Corp., 468 A.2d 150 (N.J. 1983); Div. of Health, Dep't of Health & Welfare v. Rogers, 432 A.2d 135 (N.J. Super. Ct. 1981). 144. See, e.g., Columbian Athletic Club v Indiana ex. rel. McMahan, 40 N.E. 914 (Ind. 1895); Lindsey v. Massios, 360 N.E.2d 631, 635 (Mass. 1977) (holding...

#### **To Fee or Not to Fee: That Is the Question the Tenth Anniversary of Missouri v. Jenkins 16 J. Paralegal Educ. & Prac. 85 (2000) (Journal of Paralegal Education and Practice)**

...In short, the court "refrain[ed] from enlarging upon the meaning of the term 'reasonable attorney's fee.'"<sup>42</sup> The Indiana Appeals Court has since taken a different position in the 1997 case of **Shell Oil Co. v. Meyer**,<sup>43</sup> an environmental case decided under the Underground Storage Tank Act (USTA).<sup>4</sup> The USTA provides that "[a] person who brings a successful action...is...entitled to receive reasonable attorney's fees and court costs .... "<sup>45</sup>(emphasis in original). The lower court had entered judgment for the landowners, awarding them \$1,459,721.25 in attorneys' fees and...

**Issue 4 - (2011): Survey: Environmental Law 2009-2010 Environmental Law Survey 44 Ind. L. Rev. 1165 (2010-2011) (Indiana Law Review)**

...where the developer did not purchase the land (or any property or product) from Rockville.<sup>24</sup> However, the court affirmed the trial court's entry of summary judgment for Rockville on KB's trespass and nuisance claims, as the contaminating activities had ceased before the property 274. **684 N.E.2d 504**, 526-27 (Ind. Ct. App. 1997). 275. Wickens, 620 F.3d at 758 (citing Meyer, 684 N.E.2d at 526-27). 276. Id. 277. Id. 278. Id. at 759 (citing FED. R. Civ. P. 26(a)(1)(A)(iv)). 279. Id. 280. Id. 281. Id. 282. KB Home Ind., Inc. v. Rockville TBD Corp., 928 N.E.2d 297, 299...

**Issue 2 - (Winter 2001): Symposium 2001: Toxic Torts: Issues of Mass Litigation, Case Management, and Ethics: Note No Fault Remediation of MTBE 26 Wm. & Mary Envtl. L. & Pol'y Rev. 477 (2001-2002) (William and Mary Environmental Law and Policy Review)**

...225 (N.J. 1996), the New Jersey Supreme Court explained that independent service stations merely sell the oil companies' products, and are themselves responsible for the manner in which the product is sold. Id. at 232. However, the Court of Appeals of Indiana in *Shell v. Meyer* (Meyer 1), **684 N.E.2d 504** (Ind. Ct. App. 1997) disagreed with the New Jersey Supreme Court in finding that oil companies do maintain enough control over stations to constitute UST responsibility. By entering into agreements with oil companies, station owners agree to oil company set and enforced...

**Issue 5 - (June 2002): Control-Based Approach to Shareholder Liability for Corporate Torts, A 102 Colum. L. Rev. 1203 (2002) (Columbia Law Review)**

activity. Even leaving aside investment in overly risky activity, it is not altogether clear that more shareholder control is more efficient. See *infra* note 363 and accompanying text. 322. Cf. **Shell Oil Co. v. Meyer**, **684 N.E.2d 504**, 516-17 (Ind. Ct. App. 1997) (holding franchiser, a large oil marketer, responsible for underground storage tank due to its knowledge of steel underground storage tank problems and fact that "the solution to the problem required significant engineering knowledge and resources beyond the limits of most gas station owners"), transfer granted, 698...

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- 1. City of Jeffersonville v. Envtl. Mgmt. Corp. (Ind. App. 2016)** September 21, 2016  
 ...attorney's fees may be assessed and those for which they may not. Id. "While a perfect breakdown is neither realistic nor expected, a reasonable, good faith effort is anticipated." Id. (quoting **Shell Oil Co. v. Meyer**, **684 N.E.2d 504**, 525 (Ind. Ct. App. 1997)), *aff'd* in relevant part, 705 N.E.2d 962, 981 (Ind. 1998). Moreover, "[t]he trial judge possesses personal expertise that he or she may use when determining Page 11 reasonable attorney's fees." *Weiss v. Harper*, 803 N.E.2d 201, 208 (Ind. Ct. App. 2003). [8] In determining which attorney's fees were incurred as a result of the...
- 2. Padgett Bros. LLC v. A.L. Ross & Sons, Inc. (S.D. Ind. 2014)** October 8, 2014  
 ...attributable to the ELA claim. As Ross states, when a statute authorizes attorneys' fees for recovery under one cause of action, but not another, a court should only authorize reimbursement of fees incurred in pursuing that one cause of action that allows for such fees. See *Shell Oil v. Meyer*, **684 N.E.2d 504**, 524 (Ind. Ct. App. 1997), summarily *aff'd* in relevant part by *Shell Oil v. Meyer*, 705 N.E.2d 962, 981 (Ind. 1998). Ross, however, fails to note that when an overlap between the two causes of action occurs, the Court determined "[it] would not disallow compensation for the...
- 3. Wickens v. Shell Oil Co., 620 F.3d 747 (7th Cir. 2010)** August 31, 2010  
 ...cause of action, because a court cannot "authorize reimbursement of fees incurred in pursuing ... non-USTA claims ..., regardless of how closely related those claims might be to the USTA claim." **Shell Oil Co. v. Meyer**, **684 N.E.2d 504**, 524 (Ind.Ct.App.1997); summarily affirmed in relevant part, 705 N.E.2d 962, 981 (1998).  
 Noting that the Act protects only a narrow right to contribution from an operator for corrective action costs, the district court concluded that the statutory purpose is satisfied "once a defendant accepts its legal...
- 4. Wickens v. Shell Oil Co., 569 F.Supp.2d 770 (S.D. Ind. 2008)** August 1, 2008  
 ...litigation with various landowners over contribution and reimbursement of fees and costs under the USTA has spawned the two, most instructive decisions interpreting Indiana law by Indiana courts. **Shell Oil Co. v. Meyer**, 705 N.E.2d 962 (Ind.1999) sets forth the Indiana Supreme Court's guidance for determining who is properly classified as an "operator," and thus the party or person ultimately liable for contribution, under the USTA. However, the Court in *Meyer* also summarily affirmed the lower appellate court's decision with respect to costs and attorney fees (Id. at 981) which had...
- 5. Prime Mortgage Usa, Inc. v. Nichols, 885 N.E.2d 628 (Ind. App. 2008)** April 23, 2008  
 Gravel, LLC, 825 N.E.2d 826, 838 (Ind.Ct.App.2005), trans. denied. "While a perfect breakdown is neither realistic nor expected, a reasonable, good faith effort is anticipated." Id. (quoting **Shell Oil Co. v. Meyer**, **684 N.E.2d 504**, 524-25 (Ind.Ct.App.1997), *aff'd* in relevant part, 705 N.E.2d 962 (Ind.1998)). "The 'United States Rule' is that parties bear their own fees in the absence of a statute or a basis in quantum meruit for reimbursing a party who has benefited others." *Boehm*, 743 N.E.2d at 245. Thus, when a shareholder...
- 6. Wilcox Lumber Co., Inc. v. Andersons, Inc., 848 N.E.2d 1169 (Ind. App. 2006)** June 16, 2006  
 ...the uncontested evidence, in the form of Andersons' counsel's affidavit, establishes that the attorney fees are reasonable. Furthermore, although a hearing on attorney fees is advisable in complex cases, it is not required in routine cases such as the instant one. See *Shell Oil Company v. Meyer*, **684 N.E.2d 504**, 523 (Ind.Ct.App.1997), affirmed in pertinent part, 698 N.E.2d 1183 (Ind.1998). Wilcox's final argument is based on *In re Estate of Inlow*, 735 N.E.2d 240, 253 Page 1172 (Ind.Ct.App.2000), in which we held as a matter of law...
- 7. Nance v. Miami Sand & Gravel, LLC, 825 N.E.2d 826 (Ind. App. 2005)** April 14, 2005  
 party requesting an assessment of attorney fees bears the burden of proving an appropriate allocation of fees between issues for which attorney fees may be assessed and those for which they may not. **Shell Oil Co. v. Meyer**, **684 N.E.2d 504**, 524-25 (Ind.Ct.App.1997), summarily *aff'd* in relevant part, 705 N.E.2d 962, 981 (Ind.1998). "While a perfect breakdown is neither realistic nor expected, a reasonable, good faith effort is anticipated." Id. at 525. In the present case, the conversion claim against John and Georgia was but a small fraction...
- 8. Roberts v. ALCOA, INC., 811 N.E.2d 466 (Ind. App. 2004)** July 7, 2004  
 ...the issue of the allocation of trial expenses in this matter sounds in equity. Our supreme court has held, "a court of equity has the power to require that to be done which should have been done." **Shell Oil Co. v. Meyer**, **684 N.E.2d 504**, 520 (Ind.Ct.App.1997)(quoting *Walter v. Balogh*, 619 N.E.2d 566, 568 (Ind.1993)). In this same vein, we have held that trial courts have full discretion "to fashion equitable remedies that are complete and fair to all parties involved." Id. (quoting *Hammes v. Frank*, 579 N.E.2d 1348, 1355 (Ind.Ct.App.1991)). Therefore, we consider the circumstances of this...
- 9. In re Estate of Inlow, 735 N.E.2d 240 (Ind. App. 2000)** September 6, 2000  
 ...Conduct Rule 1.5(a) are to be considered in determining the reasonable hourly rate for calculation of the lodestar, and should not also be used to justify the application of a multiplier. See **Shell Oil Co. v. Meyer**, **684 N.E.2d 504**, 526-27 (Ind.Ct.App.1997), *aff'd* in relevant part, 705 N.E.2d 962 (Ind. 1998). Here, the trial court first calculated the number of hours worked multiplied by the applicable hourly rates at \$705,247.50, then subtracted an unknown number of "excessive" hours relating to "fees for fees," and finally either...
- 10. Missi v. CCC Custom Kitchens, Inc., 731 N.E.2d 1037 (Ind. App. 2000)** July 14, 2000  
 ...actions, the party recovering judgment shall recover costs, except in those cases in which a different provision is made by law." 4. But see **Shell Oil Co. v. Meyer**, **684 N.E.2d 504**, 524-25 (Ind.Ct.App.1997) (holding paralegal fees and expenses for telephone, computer legal research time, postage, mileage, depositions,

copies, process, and expert witnesses recoverable as `attorney's fees and court costs' under IND.CODE §§ 13-23-1-1 through XX-XX-XX-X, Indiana's Underground Storage Tank Act), transfer granted and opinion vacated in part...

**11. Wallem v. CLS Industries, Inc., 725 N.E.2d 880 (Ind. App. 2000)**

March 9, 2000

...powers. I recognize that courts have full discretion to fashion equitable remedies that are complete and fair to all parties involved. See **Shell Oil Co. v. Meyer, 684 N.E.2d 504** (Ind.Ct.App.1997), aff'd in this respect, rev'd on other grounds, 705 N.E.2d 962 (Ind.1998). However, the jurisdiction of a court is limited by the pleadings before that court invoking that jurisdiction. *New Life Comm. Church of God v. Adomatis*, 672 N.E.2d 433 (Ind.Ct.App.1996). "The powers of a court of equity are limited to the cause of action and issues..."

**12. PARKS HIWAY ENTERPRISES v. CEM LEASING, 995 P.2d 657 (Alaska 2000)**

February 4, 2000

...(quoting *Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co.*, 746 P.2d 896, 905 (Alaska 1987)). 20. We decline Parks Hiway's invitation to follow **Shell Oil Co. v. Meyer, 684 N.E.2d 504** (Ind.App. 1997), rev'd in part, 705 N.E.2d 962 (Ind.1998). 21. AS 46.03.822(a)(5) (emphasis added). 22. "Where a statute's meaning appears clear and unambiguous, ... the party asserting a different meaning bears a correspondingly heavy burden of..."

**13. Shell Oil Co. v. Lovold Co., 705 N.E.2d 981 (Ind. 1998)**

December 30, 1998

...Attorneys for Amici Curiae. ON PETITION TO TRANSFER BOEHM, Justice. This case, like **Shell Oil Co. v. Meyer, 705 N.E.2d 962** (Ind.1998), also decided today, deals with the liability of refiners under the Indiana Underground Storage Tank Act (the "Act"). In *Meyer* we held that a refiner is not an "operator" of the USTs at a retail gasoline station and therefore not liable for costs of corrective action from leaks in the tanks, merely because the refiner's brand creates practical...

**14. Shell Oil Co. v. Meyer, 698 N.E.2d 1183 (Ind. 1998)**

January 21, 1998

...1183 698 N.E.2d 1183 *Shell Oil Co. v. Meyer* Supreme Court of Indiana January 21, 1998 **684 N.E.2d 504** Transfer...

**15. Shell Oil Co. v. Lovold Co., 687 N.E.2d 383 (Ind. App. 1997)**

November 26, 1997

...storage tank." I.C. § 13-11-2-148(d). Recently, another panel of this court concluded that the term "operator" was ambiguous because the legislature failed to define the words control and responsible. *Shell Oil Co., Union Oil Co. v. Meyer, 684 N.E.2d 504*, 514 (Ind.Ct.App.1997). As a result, the *Meyer* court applied rules of statutory construction, and determined that an operator was someone who had the authority to control the underground storage tanks. *Id.* at 516. Unlike the *Meyer* court, we do not conclude that the terms...

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