

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**HILTY LIMITED FAMILY
PARTNERSHIP, LP, a Missouri
Limited Partnership**

APPELLANT,

v.

**GARY M. SCOTT, AS TRUSTEE OF
THE GARY M. SCOTT REVOCABLE
TRUST DATED 9/11/1998**

RESPONDENT.

DOCKET NUMBER WD74539
DATE: September 25, 2012

Appeal From:

Henry County Circuit Court
The Honorable Michael C. Dawson, Judge

Appellate Judges:

Division One: James M. Smart, Jr., Presiding Judge, Lisa White Hardwick, Judge and Gary D. Witt, Judge

Attorneys:

Robert L. Cox, Clinton, MO, for appellant.

Robert M. Thompson and James T. Wicks, Kansas City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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Before Division One: James M. Smart, Jr., Presiding Judge, Lisa White Hardwick, Judge and Gary D. Witt, Judge

Hilty Family Limited Partnership, the holder of a note on an above-ground irrigation system that is situated on farmland now owned by Gary M. Scott, sought replevin and damages. After the trial court found that the irrigation system was a fixture and ownership transferred with the land, HFLP appeals.

AFFIRMED.

Division One holds: The trial court did not abuse its discretion in finding that the irrigation system was a fixture where the system (1) was annexed to the land through its two miles of underground pipes and wires, and large concrete pads to which the pumps and pivots were affixed, (2) was specifically adapted to the farmland, and (3) the intent of the purchaser was that it remain with the land.

Opinion by Gary D. Witt, Judge

September 25, 2012

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