
Significant Ruling in Eagle Ford Shale Emissions Case

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Court Rules in Favor of O&G Company in Personal Injury and Property Damages Case Due to Hydrocarbons

HOUSTON – The Fourth Court of Appeals in San Antonio earlier this month affirmed in full a summary judgment in favor of Marathon Oil and Gray Reed client Plains Exploration (a division of Freeport–McMoRan) against a Karnes County family who alleged personal injuries and property damages from oil and gas operations in the vicinity of their house.

In *Cerny v. Marathon Oil Corp. and Plains Exploration & Producing Co.*, No. 04–14–00650–CV, Justice Rebeca C. Martinez wrote the majority opinion joined by Chief Justice Sandee Bryan Marion. They held that there was a lack of competent evidence not only that the Cerny family had been exposed to hydrocarbon emissions — but also that their alleged injuries were caused by the oil and gas activities.

Justice Luz Elena D. Chapa wrote a concurring and dissenting opinion, agreeing with most of the majority opinion.

“The Court’s ruling is consistent with the law and the undisputed evidence, including from plaintiffs’ experts, that emissions from these operations did not migrate to the Cerny property, and therefore could not have caused their alleged injuries,” said Gray Reed partner and attorney Jim Ormiston, who leads the firm’s Litigation section. “This ruling is significant in light of similar cases, and recent jury verdicts and judgments, in which almost identical claims were asserted.”

The Cerny family filed suit in May 2013 alleging they suffered various health issues and damages to their home cause by the drilling and operating of oil and gas wells by Marathon and Plains within a three-mile radius of their property. In August 2014, Karnes County District Court Judge Stella Saxon granted summary judgment in favor of the defendants.

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