

Appeals court hears arguments in Eagle Ford Shale lawsuit

Michelle Casady | May 14, 2015



Attorneys for a family that claims drilling on the Eagle Ford Shale made their Karnes County home unlivable and exacerbated medical problems were back in court Wednesday, arguing before the 4th [Court of Appeals](#) that the case — which was thrown out by a judge last August — deserved to be heard by a jury.



Michael and [Myra Cerny](#) filed suit in May 2013 against Marathon Oil Corp., Marathon Oil EF

 ing that their once quiet and peaceful acre of
 en surrounded by wells and the oil-field
 ramic, noise and dust that went along with it.

Attorneys for the companies argued the Cernys hadn't proven that the oil and gas wells and emissions specifically were to blame for any quality-of-life problems.

Their case was thrown out by state District Judge [Stella Saxson](#) in August when she granted a summary judgment in favor of the companies. Saxson said the Cernys had failed to prove causation.

The panel of three justices who heard arguments Wednesday from attorneys [David Towler](#) and [Tomas Ramirez](#), who represent the Cernys, and from attorneys [Macey Stokes](#) and [James Ormiston](#), who represent Marathon Oil and Plains Exploration respectively, will determine at a later date whether to uphold the judgment in favor of the companies or to rule in favor of the Cernys and grant them a jury trial.

Towler argued that while there wasn't expert medical testimony linking the Cernys' medical problems — nosebleeds, respiratory issues, bone pain and headaches — to the companies'

emissions, his clients still deserved a trial.

“You don’t have to get cancer. It’s a loss of enjoyment of the property; it doesn’t have to cause some serious, catastrophic disease,” he said. “Just because you can’t prove one of those elements doesn’t mean you’re not entitled to a trial on the elements you can prove.”

Attorneys for the oil and gas companies echoed the arguments that won them a summary judgment nearly a year ago.

“They still have to prove causation, that the emissions caused this inconvenience, that the emissions actually made it to their property and inconvenienced them,” Stokes said, adding that in prior court filings, the Cernys never linked the allegations specifically to Marathon Oil.

Ormiston told the panel it was the Cernys who had the burden to prove the hydrocarbons from Plains Exploration “migrated to or impacted their property.”

“And they didn’t,” he said.

mcasady@express-news.net

Twitter: @MichelleCasady

Michelle Casady | Staff Writer | San Antonio Express-News



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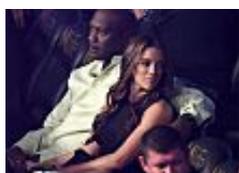
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