

NEWS RELEASE

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Oklahoma Plaintiffs Win Venue Battle in Class Action against Mining Giant Freeport-McMoRan

Blackwell, OK – The law firm of Nix, Patterson & Roach, LLP and a group of other attorneys representing plaintiffs from the town of Blackwell, Oklahoma, today announced an early victory in a presumptive class action lawsuit filed against mining giant Freeport-McMoRan Copper & Gold, Inc., Phelps Dodge Corporation, BNSF Railway Co., and other defendants.

On April 27, 2009, the Honorable Joe Heaton of the U.S. District Court for the Western District of Oklahoma refused the defendants' request to move the case to federal court, remanding the case back to the District Court of Kay County, Oklahoma, where it was first filed in April 2008.

The lawsuit contends that the entire town of Blackwell is contaminated by lead, arsenic, cadmium, and other toxic waste left behind by the Blackwell Zinc Smelter, which operated in the town for nearly 60 years. As owners of the Blackwell Zinc Company, the smelter's operator, Freeport-McMoRan is liable for any damages caused by this contamination.

Freeport-McMoRan and the other defendants argued that the Blackwell Zinc Company does not maintain a principal place of business in Blackwell and that the lawsuit should therefore be moved out of Kay County. The Court disagreed and granted the plaintiff's motion to move the case back to state court, where it will be ultimately heard by a jury of local citizens.

"The people of Blackwell have won the first major battle in a long war," said Nelson Roach, a partner with Nix, Patterson & Roach and an attorney representing Blackwell residents. "The town of Blackwell has suffered for decades because of this contamination, so local residents deserve a chance to serve on the jury that will decide the case."

The presumptive class action lawsuit filed by Blackwell residents is styled *Coffey, et al. and Others Similarly Situated v. Freeport-McMoRan Copper & Gold, Inc., Phelps Dodge Corporation, et al.*, Case No. CJ-2008-68. It demands that Freeport-McMoRan and the other defendants thoroughly and completely clean all property contaminated by the smelter waste and provide for a medical-monitoring program open to all Blackwell residents.

For further information and documents relevant to this case, please see Cleanupblackwell.com. Area residents with questions may contact Nix, Patterson & Roach toll-free at 1-800-853-5310.

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