

NEWS RELEASE

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Class Action Plaintiffs Win Venue Appeal against Freeport-McMoRan

High-Stakes Suit against Mining Giant Will Return to Oklahoma State Court

Blackwell, OK – Attorneys from Nix, Patterson & Roach, LLP, today announced a substantial victory in an environmental-cleanup lawsuit filed by their clients, a group of residents of Blackwell, Oklahoma, against Freeport-McMoRan Copper & Gold, Inc., Phelps Dodge Corporation, Burlington Northern Santa Fe Railway, and other defendants.

On September 4, 2009, the U.S. Court of Appeals for the Tenth Circuit in Denver, Colorado, issued an order returning the class action to state court in Kay County, Oklahoma, where the plaintiffs originally filed it in April 2008.

The decision by the Court of Appeals concludes a lengthy series of attempts made by the defendants to have the case heard by a jury outside the community of Blackwell. These attempts began soon after the lawsuit was initially filed in Kay County, when the defendants removed the case to a federal court in Oklahoma City. The federal judge who heard the matter refused the request, ordering the case back to Kay County. The defendants sought to have the federal judge's order overturned by the Court of Appeals.

According to the lawsuit, Freeport and the other defendants are responsible for 58 million pounds of lead, arsenic, cadmium, and other toxins that now contaminate the homes, businesses, schools, and public spaces of Blackwell. The suit demands that the defendants thoroughly clean all contaminated property, reimburse residents for lost property values, and provide for a public medical-monitoring program.

“This is a significant win for the people of Blackwell,” said Nelson Roach, a partner with Nix, Patterson & Roach and one of the attorneys representing the plaintiffs. “This town has been contaminated for decades, and local residents deserve to play a greater role in the cleanup. Sadly, though, census estimates show that more than 100 children have been born in Blackwell since the defendants began delaying the case. Had the defendants chosen to clean the town properly rather than waste time and money trying to move the case, those children might not have been exposed to the contamination.”

Blackwell's contamination was left behind by the Blackwell Zinc Smelter, which operated in the town for nearly 60 years. As successor-in-interest to the company that owned the smelter, Freeport-McMoRan is legally responsible for any contamination related to its operation.

The 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.

Area residents with questions should contact Nix, Patterson & Roach toll-free at 1-800-853-5310 or via Cleanupblackwell.com.

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