

# 10TH CIRCUIT DISMISSES HOMEOWNERS CLAIMS OF INCREASED INSURANCE PREMIUMS

In *Meier v. Chesapeake*, several homeowners brought a class action, claiming underground injection of wastewater from hydraulic fracturing has led to increased seismic activity, causing premiums for earthquake insurance to increase. The US Court of Appeals for the Tenth Circuit upheld the dismissal of the case against several oil and gas companies whose operations involve injections into disposal wells. The 10<sup>th</sup> Circuit ruled Oklahoma law, consistent with the law in most states, does not allow claims for increased insurance premiums allegedly caused by negligence.



## **Case Filed in State Court; Removed under Class Action Fairness Act**

The homeowners filed their class action in Oklahoma state court; the defendants removed the case to a federal district (trial level) court under the Class Action Fairness Act, a federal statute that allows defendants to remove to federal courts class actions that would otherwise not be subject to federal court jurisdiction.

The federal district court dismissed the case after removal, and the 10<sup>th</sup> Circuit upheld the district court's ruling.

## **No Claim for Increased Insurance Premiums**

The 10<sup>th</sup> Circuit analyzed Oklahoma law and observed Oklahoma courts had never determined if a person could sue and claim as damages higher insurance premiums resulting from a defendant's negligence. However, the 10<sup>th</sup> Circuit looked at other Oklahoma cases and the law of other states and expressed confidence that the Oklahoma Supreme Court would reject this claim. The 10<sup>th</sup> Circuit noted Oklahoma law generally rejects claims for "increased risk," except in cases involving a physician negligently treating a patient.

## **No Certification to the Oklahoma Supreme Court**

The homeowners asked the 10<sup>th</sup> Circuit not to decide the case but to certify the issue to the Oklahoma Supreme Court for a decision. While the 10<sup>th</sup> Circuit acknowledged it could certify, it chose not to, saying Oklahoma law was sufficiently clear.

For a copy of the 10<sup>th</sup> Circuit opinion <https://www.ca10.uscourts.gov/opinions/18/18-6152.pdf>