

Fredric A. Bremseth
Keith E. Ekstrom
Bremseth Law Firm, P.C.
601 Carlson Parkway, Suite 995
Minnetonka, Minnesota 55305
Telephone: (952) 475-2800
Facsimile: (952) 475-3879

FILED

AUG 20 2012
PATRICK E. DUFFY CLERK
BY Deputy Clerk

CLERK OF THE
DISTRICT COURT
CAROL MUESSIG

2012 JUL 17 PM 12 25

FILED
BY KJ
DEPUTY (1)

ATTORNEYS FOR PLAINTIFF

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

TRISTA F. JUHNKE, as personal
representative of the Estate of Dustin Bergsing,
deceased,

Plaintiff,

v.

MARATHON OIL COMPANY, a Texas
corporation, and MARATHON OIL
CORPORATION, a Delaware corporation,

Defendants.

Case No. DV-12-0856
Judge INGRID GUSTAFSON

COMPLAINT AND JURY DEMAND

120/67469

Trista F. Juhnke, as personal representative of the Estate of Dustin Bergsing, deceased,
states and alleges as follows:

1. Trista F. Juhnke is the personal representative of the Estate of Dustin Bergsing,
deceased, having been appointed by the Park County, Montana, District Court by Letters of
Appointment dated January 26, 2012.

2. Defendant Marathon Oil Company is a Texas corporation, with its principal office
address in Houston, Texas. Defendant Marathon Oil Company is a subsidiary of Marathon Oil
Corporation, a Delaware corporation. The exact nature of the history and business relationship
between the two entities is unknown at the present time. (Hereinafter "Marathon" shall refer to
both entities.)

IMAGED
455020

JH

3. Marathon's registered agent for service of process is CT Corporation System, 208 North Broadway, Suite 313, Billings, Montana 59101. Venue in Yellowstone County is therefore proper under M.C.A. 25-2-122(2)(c).

4. Defendant Marathon holds approximately 400,000 net acres in North Dakota and Montana, and is engaged in exploration, drilling and production on this land, which is located within the boundaries of the Bakken Shale Oil Field.

5. Decedent Dustin Bergsing was employed by a company which provided services to defendant Marathon on a contract basis throughout the Bakken Shale Oil Field. On or about January 7, 2012, Dustin Bergsing was engaged in his job duties at an oil rig or well known as the Marathon well site in Mandaree, North Dakota.

6. The well, and the equipment used for oil inspection, processing, storage and delivery was owned and was under the control of Marathon at all times material hereto.

7. Certain wells in Bakken Shale Oil Field have been known to produce dangerous concentrations of hydrogen sulfide and other toxic gases in the vicinity of the well and storage tanks. The vapors from these substances, the exact nature of which is unknown at the present time, can be toxic and fatal if inhaled.

8. Dustin Bergsing was a healthy 21 year old just five days shy of his 22nd birthday. Dustin Bergsing did not have any chronic or acute health problems that would put him at risk for sudden death.

9. On January 7, 2012, Dustin Bergsing was working at the Marathon site performing his duties of inspection and maintenance of equipment. A coworker found Bergsing unresponsive on a catwalk on the oil storage tank, and the cover of the storage tank was open. It was determined that Bergsing was deceased.

10. On June 22, 2012, the North Dakota State Forensic Examiner, William Massello, III, M.D., issued an autopsy report finding that the cause of death was “hydrocarbon poisoning due to inhalation of petroleum vapor.” No other drug or toxic substance was found in the autopsy.

11. Marathon owed a duty to maintain its equipment and facilities in a condition that was not unreasonably dangerous to persons in the vicinity of said equipment.

12. Marathon had a duty to test and monitor its equipment for conditions which could cause harm or death to persons in the vicinity of the equipment.

13. The Bakken Shale Oil Field is known to contain wells and petroleum products that emit toxic vapors, including but not limited to hydrogen sulfide. Some of these vapors are exceedingly dangerous and can cause death with a single inhalation.

14. Defendant Marathon was negligent in its specifications, inspections, and maintenance of the oil well, equipment and tank in the vicinity of the site of death of Dustin Bergsing.

15. Defendant Marathon was under a heightened duty of care in inspection, monitoring and ensuring safety of its equipment in the Bakken Shale Oil Field, due to the presence of an ultra-hazardous, vaporous chemical hydrogen sulfide, the concentration of which waxed and waned at various well sites. Defendant negligently breached this duty.

16. As a direct result of the negligence of defendant Marathon, Dustin Bergsing was exposed to toxic petroleum vapors which poisoned him and caused a rapid sudden death.

17. Defendant is liable to plaintiff’s estate for wrongful death caused by negligence pursuant to Montana Statute 27-1-513.

18. As a direct result of the wrongful death of Dustin Bergsing, his heirs have suffered economic and non-economic damages, for which the personal representative is seeking recovery.

19. Defendant had knowledge of facts or intentionally disregarded facts that created a high probability of injury to Dustin Bergsing, and deliberately proceeded to act in conscious disregard and indifference to the high probability of injury to Dustin Bergsing.

20. Plaintiff, as personal representative, is entitled to collect such damages which under all the circumstances of the case may be just, pursuant to Montana Statute 27-1-323, punitive damages pursuant to Montana Statute 27-1-221, the common law, and other statutes and regulations pertaining to the safety and health of workers in oil fields.

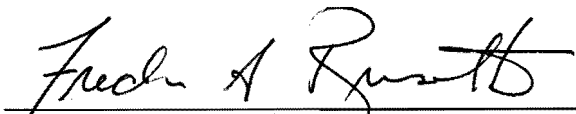
WHEREFORE, plaintiff prays for such damages as under all the circumstances of the case may be just.

PLAINTIFF DEMANDS TRIAL BY JURY.

BREMSETH LAW FIRM, P.C.

Dated: July 12, 2012

By:


Fredric A. Bremseth (MT #4023)
Keith E. Ekstrom (MT #8066)

Attorneys for Plaintiff