

November 6, 2015

Re: Ernst vs. AER, Docket 36167

Greetings to the Supreme Court of Canada,

We would formally like to send our gratitude to the Court for their astute consideration in hearing whether or not an Albertan with a valid Charter claim against the Alberta Energy Regulator (AER) has the legal right to sue the AER and seek remedy, and as such, our family wishes to submit a statement to this honorable Court with respect to the case of Ernst v. AER. We do not seek audience before the Supreme Court but need to communicate our support for Ms. Ernst and articulate our disappointment and distrust concerning the activities and operation, or lack of, by the AER, and the access to justice issue faced by such appellants.

Exploiting unconventional oil and gas resources is admittedly, by industry, an "experiment" in "brute force and ignorance." There are hundreds of peer-reviewed published papers that clearly show immense public health impacts and environmental damage. The AER is fully aware these impacts are occurring, as is evidenced by their deregulation, closing of contamination cases where evidence of industry contamination is overwhelming, failed attempts to cover-up the impacts - and the fact that the Ernst case is now before you. Yet, it would seem the AER prefers (and perhaps it's easier) to continue to "regulate" and "manage" the rights of harmed citizens, rather than deal with the rampant and irreversible impacts of an industrial experiment.

Our family sincerely supports Ms. Ernst's civil efforts to challenge the AER's legal protection from violating the Canadian Charter of Rights and Freedoms. Not only do we think the AER has violated Ms. Ernst's Charter rights, it appears from numerous public reports of harm that the AER are smugly decimating the rights of Albertans across our province, and we think the lower Courts' rulings in favour of the regulator's immunity has set a dangerous precedent. It's a depressing example of the corporate influence in Alberta, and the failings of our judicial system to protect the fundamental rights of Albertans. To appreciate that eight years into a legal filing Ms. Ernst still does not have the legal standing to hold the AER accountable for a Charter violation, demonstrates to us that the Courts have failed the public interest - and this must be remedied.

Additionally, we would like to acknowledge the courage and integrity of the Rosebud residents responsible for creating and supporting a powerful and revealing petition to the Court. We think this constitutes a level of community cohesion and awareness that is critically important and telling.

We also commend the submission by the BC TapWater Alliance. It brings forth

many of the criticisms we have with respect to the AER, such as the abandonment of a public interest and public health mandate in the Responsible Energy and Development Act (REDA), and the veiled shift from an “agent of the crown” to a one hundred percent industry funded corporation, overseen by conflicted Chair, Gerald Protti.

We think the AER should be before this honorable Court for much more than a Charter violation, and perhaps eventually they will be, facing an in-depth hearing for gross negligence and bad faith regarding their blessing to allow Encana to fracture the Rosebud drinking water aquifers, then disgracefully and illegally smearing Ms. Ernst in defeatist attempts to stop her from exposing such negligence. We speak from disheartening and irrevocable experience. Having our farm surrounded by hydraulic fracturing and its documented impacts, which the AER failed to regulate, has amounted to the most tragic and damaging years of our life - with the regulator slamming the door on our case.

Since 2006, our family has been exposed to trillions of litres per year of hazardous, toxic and health altering emissions, as well as intense noise, light, water and traffic pollution, altering our health and disrupting our daily lives. We have documented evidence that Angle Energy falsified public notice to our family regarding high volumes of chronic sour gas venting and combustion emissions from compressor stations, repeatedly lying to our family about the source and nature of such emissions; preventing our ability to understand and object, and have the AER order the harmful emissions mitigated. The AER failed to notice, or order the company to remediate such obvious deficiencies in important document submissions and ongoing operations, despite numerous inspections, over several years. Among other violations, Angle Energy did not operate incinerators properly, increasing the levels of contamination to which we were exposed and contaminated waste was dumped in unlined, unfenced sumps near our home which was left unmitigated for months.

As a consequence of such negligent operations and unresponsiveness by the AER, our health, safety and the enjoyment of our home has been, and continues to be, abused and damaged. Our family has suffered acute and chronic illnesses, including reduced lung function in both our children, and most distressingly - our daughter has a rare and invasive tumor in the posterior of her neck - which presented after a 19 day well testing incineration event of sour formation gases and yet to be disclosed industrial chemicals. After this incineration event, where flames were ejected some 30 feet from the incinerator, fifty percent of our livestock were still-born.

Our many serious and validated health concerns were recently met with the AER publicly publishing and distributing a report on our family; the *Didsbury Recurring Health Complaints Technical Synthesis*. This report is rife with

omissions, deletions, fabrications and misleading information. Despite our respectful request to have the report removed from the public forum, based on the severe deficiencies, the AER refused. Not only did the AER not receive consent from us to produce or publish this report, they did not engage or have us participate in this analysis of our family at any given time, nor did the AER personnel who wrote the report have the technical or professional backgrounds to address such health impacts. The AER continues this deception by publishing in their 2015 Annual Report that a “new process” is being tested with respect to health complaints, however, the AER can provide no proof of such - and Alberta Health Services has confirmed no such process has been formalized.

In the three years we have had personal dealings with the AER, the documented evidence we have amassed overwhelmingly points to the AER as an entirely ineffective regulator, bereft of good will, good faith, or even legal obligation to protect the health and safety of residents overrun by oil and gas exploration.

In 2013, after failing to find counsel in Alberta, I determined that our only recourse was to file suit as a self-represented litigant, which we did: *Daunheimer v. Angle Energy*. I read the Rules of Law and studied any legal filings that were made public on oil and gas harms. At that time, there were only three cases that were relevant and publicly available.

In our experience, it's nearly impossible for a self-represented litigant to get anywhere with respect to oil and gas operations causing personal and environmental harm. Reading the Rules of Law in preparation for our action gave us faith and confidence that we could seek appropriate remedy for harms from the negligent fracking operations by our home. I know now - after witnessing in the courtroom, the disrespect and poor manners of the Alberta Court of Appeal and the AER in the Ernst case, and experiencing Bellatrix filing intentionally cruel applications, such as striking our children from our claim and seeking a \$33,000 security for costs awards, at great financial expense to us - I had a naïve trust in the ethics, rules and purity of the legal system in Alberta.

In my view, the Supreme Court has the opportunity and responsibility to remedy the immediate implications of the Charter immunity considerations within the Ernst v AER hearing, but also in a broader perspective, to fully address the damages the AER have allowed to be carried out on the Rosebud community and Ms. Ernst. Although no ruling, by any court, will ever repair a community's frac'd drinking water supply and industry's irreversible contamination, we think the Supreme Court should grant Ms. Ernst the ability to hold the AER accountable for their enabling of such.

In closing, and in my opinion, industry's damages to our water, air, land, families and communities begin and end with the regulator, however, according to the AER's lead counsel, the effects of such damages, and more specifically industry's contaminated water; will be borne by our citizens "forever." I think two out of three courts in this country have already failed Ms. Ernst and the greater public good she undoubtedly represents - and forever is an unacceptably long time.

Highest regards and respectfully yours,

Diana, Derek, Deity and Dagan Daunheimer.