

Fifth Circuit Affirms Daubert Ruling Excluding Plaintiff Experts in Benzene Case

On May 24, 2016, the 5th Circuit Court of Appeals affirmed a decision by a federal Court in New Orleans excluding plaintiff's experts and dismissing the case against a FormanWatkins' client. Plaintiff in Burst alleged that his exposure to gasoline caused his non-Hodgkin's lymphoma. Tim Gray was part of the defense team that deposed plaintiff's experts, prepared the Daubert motions and presented witnesses at a two day Daubert hearing before the Honorable Sarah Vance, Chief Judge of the United States District Court for the Eastern District of Louisiana. In a series of Daubert rulings (104 F. Supp 3d 773; 120 F. Supp 3d 547 and 2015 WL 3755953), Judge Vance excluded 3 of plaintiff's experts on the basis that their opinions were inadmissible under Daubert. Plaintiff appealed the dismissal of certain of those experts and in an opinion not designated for publication, the 5th Circuit affirmed the Trial Court's order excluding the expert and dismissing the case.