

Appellate Cause Number 12-19-00010-CV

**American Midstream Gas Solutions, LP, Appellant**

**vs.**

**Thomas Eugene Hall, Jr. and Heather Gale Hall, Appellees**

**Background** The Halls own a parcel of land in Rusk County, Texas, on which they operate a cattle ranch. Running beneath the surface of their land is an oil and gas pipeline operated by American Midstream Gas Solutions, LP (AMGS). It is undisputed that this pipeline leaked on three occasions in 2015 and 2016.

Of the approximately 110 cattle owned by the Halls, 87 of them had access to the area where the pipeline leak occurred. Approximately three to four months after the second leak, cattle that the Halls believed to be healthy began to unexpectedly die. A total of twenty-two cows died thereafter, including several that aborted or gave birth to stillborn calves, or who died while giving birth. At least twelve calves died, although the exact number is unknown.

The Halls hired Dr. David Corley, their veterinarian, to investigate. After conducting several tests, including an autopsy on one of the calves, and other testing on another deceased cow, Dr. Corley was unable to determine any medical cause for the sudden death of the cattle. Based on the timing and number of deaths, the fact that the only cattle to die had access to the area where the pipeline leak occurred, and the lack of any other cause, Dr. Corley concluded that it was more likely than not that they died from their exposure to the materials spilled from the pipeline leak.

Accordingly, the Halls filed suit against AMGS, alleging that its negligence in failing to properly inspect, maintain, and repair its pipeline proximately caused the death of their cattle, and sought to recover damages for their market value prior to death. AMGS filed a motion to exclude Dr. Corley's testimony alleging that it was speculative and unreliable on causation. The trial court denied the motion. The matter proceeded to a trial, after which the jury found that AMGS was negligent and that its actions proximately caused the death of the Halls' cattle. The jury awarded \$89,700.00 in damages to the Halls. AMGS filed this appeal.

**Legal Issues** In this case, the Halls were required to prove by a preponderance of the evidence that the pipeline leak proximately caused the death of their cattle. This means that the Halls must show that AMGS's negligence was a substantial factor in the cattle's death, and that AMGS should have anticipated the dangers its negligent acts created to the Halls' cattle.

The trial court may permit a qualified expert to testify as to his scientific, technical, or other specialized knowledge if it will help the jury understand the evidence or to determine a fact in issue on relevant matters such as proximate causation. The trial court must determine that the evidence is reliable, based on a legitimate scientific foundation, and that the expert provides a basis for the opinion that is not merely conclusory. Moreover, the jury verdict must be supported by legally sufficient evidence, meaning more than a "scintilla" of evidence on which a reasonable juror could find the fact to be true.

AMGS argues that there is no evidence that the dead cattle consumed materials from the spill, the testing performed by Dr. Corley excluded the presence of petroleum and affirmatively identified other potential causes unrelated to AMGS's acts, and Dr. Corley's opinions were speculative as to causation. Accordingly, AMGS concludes that the trial court abused its discretion when it failed to exclude Dr. Corley's testimony, the evidence is insufficient to support the verdict, and that this Court should reverse and render judgment that the Halls take nothing from AMGS.