

## Clarification of Nuisance: An amorphous legal concept, referred to as law’s “garbage can”



Joseph M. Muska | Friday, July 1, 2016

In June 2016, the Texas Supreme Court clarified the concept of “nuisance” under Texas law. The Court’s opinion will help lawyers, businesses, and individuals understand what constitutes a “nuisance,” which has been referred to as the law’s “garbage can” because of its nebulous definition. Indeed, the United States Supreme Court once described “nuisance” as an “area of law that ‘straddles the legal universe, virtually defies synthesis, and generates case law to suit every taste.’” *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1055 (1992) (Blackmun, J., dissenting).

The case captioned *Crosstex North Texas Pipeline, L.P. v. Gardiner*, --- S.W.3d ---- (June 24, 2016) involved a nuisance dispute between two neighbors. Cross North Texas Pipeline owns and operates a natural gas pipeline that runs over 130 miles in northeast Texas. Crosstex also purchased a 20-acre tract along the path of the pipeline to use as a storage yard and compressor station. The Gardiners own an undeveloped 95-acre ranch as a place to raise cattle, ride horses and enjoy as a family. The compressor station has four diesel engines that are each “bigger than mobile homes” that run 24 hours a day, 7 days a week. It was described that the noise from the compressor station was like a “jet airplane” or an “engine of a locomotive.” After demand by the Gardiners, Crosstex took certain measures to reduce the high noise levels, like installing sound walls around the compressor station. The Gardiners claimed that these mitigation efforts were inadequate and filed a lawsuit for nuisance, among other claims, against Crosstex. After a jury trial, the jury found that the nuisance was permanent and caused the Gardiners’ ranch to decline by over \$2 million in market value.

After the appellate court issued its ruling, the Texas Supreme Court accepted the review of the case. The opinion from the *Crosstex* case is detailed and helpful to understanding the parameters and elements of a “nuisance” claim. The Texas Supreme Court held that “the term ‘nuisance’ refers not to a defendant’s conduct or to a legal claim or cause of action but to a type of legal injury involving interference with the use and enjoyment of real property.” Moreover, the Court held that “a defendant can be liable for causing a nuisance if the defendant intentionally causes it, negligently causes it, or – in limited circumstances – causes it by engaging in abnormally dangerous or ultra-hazardous activities.” The Texas Supreme Court remanded the *Crosstex* case back to the trial court for a new trial consistent with the Court’s opinion on “nuisance.”

The *Crosstex* case is instructive to lawyers, businesses, and individuals alike as it provides a comprehensive review of nuisance law and gives clarity to an amorphous legal concept.



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