



IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

IN RE: MARCELLUS SHALE LITIGATION

CIVIL ACTION NO. 14-C-3000

THIS DOCUMENT APPLIES TO:

ROBERT ANDREWS, et al. v. Antero, et al.	13-C-434 HRR ANDREWS RL
RODNEY ASHCRAFT, et al. v. Antero, et al.	13-C-434 HRR ASHCRAFT R
LINDSEY FEATHERS v. Antero, et al.	13-C-434 HRR FEATHERS LN
ROBERT GOLDEN, et al. v. Antero, et al.	13-C-434 HRR GOLDEN R
DANIEL KINNEY, et al. v. Antero, et al.	13-C-434 HRR KINNEY DL
CHARLES A. MAZER v. Antero, et al.	13-C-434 HRR MAZER CA
CHARLES T. MAZER v. Antero, et al.	13-C-434 HRR MAZER CT
DOUGLAS MAZER, et al. v. Antero, et al.	13-C-434 HRR MAZER DA
SHAWN MAZER v. Antero, et al.	13-C-434 HRR MAZER SA
SUSAN MAZER v. Antero, et al.	13-C-434 HRR MAZER SJ
GREGG MCWILLIAMS, et al. v. Antero, et al.	13-C-434 HRR MCWILLIAMS G
DAVID NUTT v. Antero, et al.	13-C-434 HRR NUTT DS
ROBERT SIDERS, et al. v. Antero, et al.	13-C-434 HRR SIDERS R

ORDER

Pursuant to the Court's January 16, 2015, Case Management Order, the deadline for dispositive motions was January 15, 2016; the deadline for responses was January 29, 2016; and the deadline for replies was February 5, 2016. See *Case Management Order for Harrison County Cherry Camp Trial Group* (Transaction ID 56618316). On January 15, 2016, Defendants Antero Resources Corporation (Antero) and Hall Drilling, LLC (Hall) filed motions for summary judgment. See *Antero Resources Corporation's Motion for Summary Judgment* (Transaction ID 58437476) and *Hall Drilling, LLC's Motion for Full or Partial Summary Judgment* (Transaction ID 58439674). On January 29, 2016, Plaintiffs filed their *Response in Opposition to Defendants Antero Resources Corporation's and Hall Drilling, LLC's Motions for Summary Judgment* (Transaction ID 58498603). On February 5, 2016, Antero and Hall filed replies in support of their respective motions (Transaction IDs 58530421 and 58531784). Throughout briefing of dispositive motions, the parties repeatedly filed motions requesting leave to exceed the twenty

(20) page limit on their supporting memoranda. All of their motions were granted.¹

Three (3) weeks after briefing concluded, the Presiding Judges heard oral argument on Defendants' motions for summary judgment on February 26, 2016. At the end of the hearing, the Court agreed to withhold its rulings on the motions in order to give the parties time to engage in a second round of mediation with the Resolution Judges in order to try and resolve these cases. The Resolution Judges ordered mediation to be reconvened in these cases on April 7 and 8, 2016. See February 29, 2016, *Order Reconvening Mediation* (Transaction ID 58643558).

On April 13, 2016, the Presiding Judges were advised that the mediation conducted on April 7 and 8 was not successful. On the same day, Plaintiffs filed a *Motion to Supplement Response in Opposition to Defendants Antero Resources Corporation's and Hall Drilling, LLC's Motions for Summary Judgment* (Transaction ID 58857554). On April 15, 2016, Defendants Antero and Hall filed a *Joint Response in Opposition to Plaintiffs' Motion to Supplement Response in Opposition to Defendants' Motions for Summary Judgment or, in the Alternative, Motion for Leave to File Supplemental Reply to Plaintiffs' Supplemental Response in Opposition to Defendants' Motions for Summary Judgment* (Transaction ID 58872071).

Plaintiffs' motion to supplement their response in opposition to Defendants' motions for summary judgment was filed over ten (10) weeks after the January 29, 2016, deadline for responses to dispositive motions, and over six (6) weeks after the Court had conducted its hearing on dispositive motions. Accordingly, Plaintiffs' motion for leave to file a supplemental response is **DENIED** as untimely filed. For the same reason, Defendants' motion for leave to

¹ See December 28, 2015, *Order Granting Antero Resources Corporation's Motion to Exceed Page Limit* (Transaction ID 58346294); January 11, 2016, *Order Granting Hall Drilling, LLC's Motion to Exceed the Page Limit for its Memorandum of Law in Support of its Motion for Summary Judgment* (Transaction ID 58409238); January 28, 2016, *Order Granting Plaintiffs' Motion to Exceed Page Limit* (Transaction ID 58492543); February 02, 2016, *Order Granting Antero Resources Corporation's Motion to Exceed Page Limit* (Transaction ID 58507048); and February 02, 2016, *Order Granting Hall Drilling, LLC's Motion to Exceed the Page Limit for its Reply in Support of its Motion for Summary Judgment* (Transaction ID 58514362).

file a supplemental reply is also **DENIED**.

Having reviewed and maturely considered the motions, extensive and voluminous memoranda and exhibits, and the arguments of counsel, and having conferred with one another to insure uniformity of their decision, as contemplated by West Virginia Trial Court Rule 26.07(a), the Presiding Judges unanimously **GRANT** Defendants' motions for summary judgment on the ground that Defendants were operating within the scope of Antero's leasehold rights to develop oil and gas underlying the properties that are the subject of Plaintiffs' complaint, as well as various surface-use and right of way agreements Antero executed with several Plaintiffs, or the owners of the properties on which Plaintiffs reside, which agreements entitled Antero to conduct oil and gas-related activities on Plaintiffs' properties. See Syl. Pt. 5, *Quintain Development LLC v. Columbia Nat. Res., Inc.*, 210 W.Va. 128, 556 S.E.2d 95 (2001): "The actions or inactions of the owner of an easement, which otherwise meet the legal definition of a nuisance, do not create a nuisance as to the estate servient to the easement unless those actions or inactions exceed the scope of the easement."

Any exceptions and objections are noted and preserved for the record. Defendants Antero and Hall shall prepare a proposed order, including detailed findings of fact and conclusions of law dismissing the above-captioned cases, with prejudice, for submission to the Court **on or before May 2, 2016**. The Pretrial Conference previously scheduled on April 29, 2016, the trial previously scheduled for July 11, 2016, and all other deadlines regarding the Harrison County Cherry Camp Trial Group are hereby cancelled.

It is so **ORDERED**.

ENTER: April 18, 2016

/s/ Alan D. Moats
Lead Presiding Judge
Marcellus Shale Litigation