

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

JOHN MARK HICKMAN,
CECIL LEE HICKMAN, LAWRENCE
GRANT HICKMAN, AND CAROL SUE
CRISWELL, individually, and on behalf
of a class of similarly-situated persons

Plaintiffs,

vs.

CIVIL ACTION NO. 14-C-133
JUDGE: Wilson

ALLIANCE RESOURCES GP, LLC,
TUNNEL RIDGE, LLC, ROBIN ENERGY INC.
and JESMAR ENERGY, INC.

Defendants.

COMPLAINT

NOW COME the Plaintiffs, John M. Hickman, Cecil L. Hickman, Lawrence G. Hickman and Carol S. Criswell, individually, and on behalf of a class of similarly-situated persons, by and through counsel, who for their complaint against the Defendants, Alliance Resources GP, LLC, Tunnel Ridge, LLC, Robin Energy Inc., and Jesmar Energy, Inc. state as follows:

1. Plaintiffs bring this action individually, and on behalf of a class of mineral right land owners, to recoup the value of methane gas extracted from their properties by the trespassing Defendants, whom had no legal interest in or right to the gas which they extracted to the detriment of the Plaintiffs and Plaintiff Class.

2. Plaintiffs John M. Hickman, Cecil L. Hickman, Lawrence G. Hickman and Carol S. Criswell are siblings who are the owners of certain real estate including, without limitation, surface and certain, mineral, oil and gas interests located in Triadelphia District, Ohio County, West Virginia.

3. Upon information and belief, Alliance Resources GP, LLC (hereinafter



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"Alliance") is a corporation organized and existing under the laws of the State of Delaware and which is licensed and registered to and does do business in the State of West Virginia.

4. Upon information and belief, Tunnel Ridge, LLC (hereinafter "Tunnel Ridge") is a corporation organized and existing under the laws of the State of Delaware and which is licensed and registered to and does do business in the State of West Virginia.

5. Upon information and belief, Defendant Robin Energy Inc. (hereinafter "Robin Energy") is a corporation organized and existing under the laws of the State of West Virginia and which has its principal place of business at 2221 Cherry Hill Road, Wheeling, WV 26003.

6. Upon information and belief, Defendant Jesmar Energy, Inc. (hereinafter "Jesmar Energy") is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania and which is licensed and registered to and does to business in the State of West Virginia. Jesmar Energy, Inc. has an office located at 1100 Avalon Road, Fairmont, WV 26554.

7. These Plaintiffs are the owners of approximately 143 acres of real estate located in Triadelphia District, Ohio County, West Virginia.

8. The Plaintiffs' real estate ownership interests include the rights to any and all mineral and/or oil and gas interests except for the coal of the Pittsburgh vein.

9. The coal of the Pittsburgh vein was previously severed from the Plaintiffs' property by the Plaintiffs' predecessor in title and said coal has already been mined from the area underlying the Plaintiffs' property.

10. The Plaintiffs' real estate interests lie within the area where the previously severed coal has been mined out.

11. Upon information and belief, Defendant Alliance claims an ownership interest in the abandoned mine works which underlie the Plaintiffs' real estate.



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12. Upon information and belief, Defendant Tunnel Ridge, LLC is a subsidiary of Defendant Alliance and claims an ownership interest in the abandoned mine workings which underlie the Plaintiffs' real estate.

13. Upon information and belief, Defendant Robin Energy is a lessor which entered into lease agreements with Defendants Alliance and/or Tunnel Ridge for the development and production of methane gas from abandoned mine workings.

14. Upon information and belief, Defendant Jesmar Energy entered into contractual agreements with one or more of the other Defendants for the construction and installation of methane production wells into abandoned mine workings.

15. The Defendants drilled and placed into production methane production wells which were drilled into the abandoned mine workings claimed to be owned by Defendants Alliance and Tunnel Ridge.

16. Upon information and belief, it was the Defendants' intent and the Defendants accomplished the production of methane gas from the abandoned and empty coal mine voids.

17. In achieving production from the abandoned and empty coal mine works, the Defendants withdrew and produced methane gas which they did not own and in which they had no legal rights.

18. The Plaintiffs own methane gas which was extracted and/or produced by the Defendants without any form of compensation to the Plaintiffs.

THE PROPOSED CLASS

19. Plaintiffs bring this action on their own behalf and on behalf of all other similarly situated individuals pursuant to Rule 23 of the West Virginia Rules of Civil Procedure. The class is presently defined as:



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Those methane gas owners, after coal interests were previously severed, who held the right to explore for and produce methane gas in the mined out works where coal was mined out who had their methane gas extracted and produced by one or more of the named Defendants without any legal interest or right to do so from 2005 to the Present from the Blum I (Permit #125-2219), Hughes I (Permit #125-22426) and/or Hanson Engineering I (Permit #125-2422) methane gas wells.

20. The requirements of Rule 23 are satisfied as follows:

- (a) The class is so numerous joinder of all members is impracticable
- (b) There are questions of law and fact common to all members of the class;
- (c) The named Plaintiffs' claims are typical of the class as a whole.

21. The Plaintiffs have displayed an interest in vindicating the rights of the class members, will fairly and adequately protect and represent the interests of the class and are represented by skillful and knowledgeable counsel. The relief sought by the Plaintiff will insure to the benefit of the class generally.

22. The common questions of law and fact predominate over individual questions, and the class action device is superior to other available methods for the fair and efficient adjudication of the controversy. If Plaintiffs prevail on their claim that they are the rightful owners of the methane gas extracted from their land by the Defendants that issue can be decided for all class members.

23. Because of the amounts of money at issue in each individual claim, the class action device is superior to other available methods for the fair and efficient adjudication of the controversy. But for a class action, class members likely would have no adequate remedy for the Defendants' pilfering of their minerals.

24. Additionally, the Defendants have acted or refused to act on grounds generally applicable to the entire class, thereby making final injunctive, declaratory and other relief appropriate for the class as a whole.



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TRESSPASS AND CONVERSION OF MINERALS

(CLASS AND INDIVIDUAL CLAIM)

25. The Plaintiffs incorporate Paragraphs 1-24 of their Complaint as if completely set forth herein.

26. The Defendants had no valid lease, contract, deed or any other writing or agreement which provided them any type of interest or right to the methane gas in the mined out works underlying the Plaintiffs property located in Ohio County, West Virginia.

27. Notwithstanding the fact that the Defendants had no legal right to extract or produce methane gas which belonged to the Plaintiffs, the Defendants purposely extracted said methane gas and obtained consideration, including financial profit and gain.

28. The Plaintiffs received absolutely no consideration from the Defendants resulting from the extraction and production of the methane gas that the Defendants extracted and produced from the Plaintiffs' property without the consent of the Plaintiffs.

29. Similarly, the Defendants committed a trespass against mineral rights legally owned by the Plaintiff Class.

30. The Plaintiffs and Plaintiff Class are entitled to recover damages from the Defendants for their willful and improper actions of extracting and producing methane gas that did not belong to them.

31. The Plaintiffs and Plaintiff Class are entitled to recover the full value of the mineral interests that were taken by the Defendants.

32. As a direct result of the conduct of the Defendants, the Plaintiffs have been forced to incur substantial costs, expenses and attorney fees.



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Relief Sought


Plaintiffs seek the following relief for themselves and all class members:

- a. Certification of the proposed classes;
- b. Judgment on all counts, together with an award of all available relief;
- c. A declaration that Defendants' acts were unlawful;
- d. Actual and compensatory damages;
- e. Attorneys' fees and costs;
- f. Pre- and post-judgment interest;
- g. All other appropriate relief.

A TRIAL BY JURY IS DEMANDED ON ALL ISSUES

John M. Hickman, et al.
Plaintiffs,

By:


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