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IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

SHELL EQUIPMENT COMPANY, INC.;
SHELL ENERGY COMPANY, INC.;
SHELL MINING COMPANY, INC.;
FRANK JOSEPH STAUD; and,
JENNIFER STAUD

Plaintiffs,

v.

Civil Action No. 14-C-143-2

MCNEER, HIGHLAND, MCMUNN AND VARNER, L.C.,
a West Virginia legal corporation,

Defendant.

COMPLAINT

1. The plaintiff, Shell Equipment Company, Inc., is a West Virginia corporation.

2. The plaintiff, Shell Energy Company, Inc., is a West Virginia corporation.

3. The plaintiff, Shell Mining Company, Inc., is a West Virginia corporation.

4. The plaintiff, Frank Joseph Staud, is a resident of the State of West Virginia.

5. The plaintiff, Jennifer Staud, is a resident of the State of West Virginia.

6. Upon information and belief, the defendant, McNeer, Highland, McMunn and Varner, LC, is a West Virginia legal corporation, engaged in the practice of law in various West Virginia counties, including, but not limited to, Harrison County, West Virginia.

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7. For a period of time in excess of twenty (20) years, the defendant, McNeer, Highland, McMunn and Varner, L.C., and its predecessor partnership, McNeer, Highland and McMunn, represented the plaintiffs in various legal matters and transactions.

8. At all times relevant hereto, there existed an attorney/client relationship between each of the plaintiffs and the defendant, McNeer, Highland, McMunn and Varner, L.C.

9. The individual plaintiffs, Frank Joseph Staud and Jennifer Staud, and the corporate plaintiffs, by and through their designated representatives placed great trust and reliance upon legal advice, skill and ability of the attorneys employed by the defendant, McNeer, Highland, McMunn and Varner, L.C.

10. The individual plaintiffs, Frank Joseph Staud and Jennifer Staud, and the corporate plaintiffs, by and through their designated representatives, relied upon the advice and representations of attorneys employed by the defendant, McNeer, Highland, McMunn and Varner, L.C.

11. The defendant, McNeer, Highland, McMunn and Varner, L.C., had a duty and responsibility to represent the plaintiffs to the best of their legal ability.

12. Among the many legal matters in which the defendant, McNeer, Highland, McMunn and Varner, L.C., represented the plaintiffs in the following civil actions:

- (a) Shell Equipment Company, Inc. and Shell Energy Company, Inc. v. Monongahela Power Company, Allegheny Power and Allegheny Energy Service Corporation, Civil Action No. 09-C-3, Circuit Court of Marion County, West Virginia (hereinafter "Marion County action");
- (b) Shell Equipment Company, Inc. v. Regional Jail and Correctional Facility Authority, Claim No. CC-10-0477, Court of Claims of the State of West Virginia (hereinafter "Court of Claims action");
- (c) Frank J. Staud and Shell Equipment Company, Inc., v. West Virginia Regional Authority, Circle M Enterprises and Randall McNally, Civil Action No. 06-C-220, Circuit Court of Randolph County, West Virginia (hereinafter "Randolph County action"); and,
- (d) Shell Equipment Company, Inc. v. Roscoe Limited Liability Company, et al., Civil Action No. 08-C-18, Circuit Court of Upshur County, West Virginia (hereinafter "Upshur County action").

13. Throughout the representation of the plaintiffs in these civil actions, as well as the representation of the plaintiffs in various other civil actions throughout the existence of the attorney/client relationship, the defendant, McNeer, Highland, McMunn and Varner, L.C., has consistently charged the plaintiffs in excess of a reasonable hourly rate, and for time in excess of actual services performed.

14. The consistent, pervasive overstating regarding the amount of time performed by the defendants attorneys and employees with respect to the various services performed on behalf of the plaintiffs constitutes a breach of the duties and obligations to the plaintiffs.

15. Upon information and belief, the defendant has engaged in the representation of individual(s) or entities who had interest directly in conflict with the interests of the plaintiffs without notice or an adequate waiver by the plaintiffs of such conflicts.

16. With respect to the representations of the plaintiff in the civil action styled: Shell Equipment Company, Inc. and Shell Energy Company, Inc. v. Monongahela Power Company, Allegheny Power and Allegheny Energy Service Corporation, Civil Action No.09-C-3, Circuit Court of Marion County, West Virginia, the defendant, McNeer, Highland, McMunn and Varner, L.C., failed to institute that civil action within the time period provided by law.

17. The West Virginia Supreme Court of Appeals, in its decision of State ex rel. Monongahela Power Company v. Fox, et al., 227, W.Va. 531, 711 S.E.2d 601 (2011), determined that the defendant, McNeer, Highland, McMunn and Varner, L.C., failed to file the subject civil action within the appropriate time period.

18. As a direct and proximate result of the failure of the defendant, McNeer, Highland, McMunn and Varner, L.C., to file the Marion County action within the appropriate time period, that action was dismissed unfavorably with respect to the plaintiffs.

19. With respect to the Randolph County action, the defendant, McNeer, Highland, McMunn and Varner, L.C., instituted a civil action which it ultimately resolved against one of the defendants without the consent of the plaintiff.

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20. With respect to the Randolph County action the defendant, McNeer, Highland, McMunn and Varner, L.C., advised a course of action which was not grounded in the law of the State of West Virginia, resulting in significant excess attorneys' fees and costs and ultimately a determination by the West Virginia Court of Claims that the plaintiffs had no cause of action against the West Virginia Regional Jail Authority, a conclusion the plaintiffs now believe should have been readily apparent to the defendant, McNeer, Highland, McMunn and Varner, L.C.

21. With respect to the Upshur County action a substantial delay and inaction on the part of the defendant, McNeer, Highland, McMunn and Varner, L.C., resulted in that action being substantially more difficult and less likely to reach a favorable conclusion than if the defendant, McNeer, Highland, McMunn and Varner, L.C., would have acted with dispatch in the representation of the plaintiffs.

22. The defendant, McNeer, Highland, McMunn and Varner, L.C., up through and including, April 10, 2013, continuously represented the plaintiffs in the above-referenced, as well as other legal matters.

23. The defendant, McNeer, Highland, McMunn and Varner, L.C., had a duty to adequately, ethically and appropriately represent the plaintiffs in all of the legal matters encompassed within the attorney/client relationship.

24. The defendant, McNeer, Highland, McMunn and Varner, L.C., breached the duties and obligations owed to the plaintiffs in various ways including, but not limited to, the following:

- (a) Failing to timely file and initiate civil actions;
- (b) Failing to properly and diligently pursue the civil actions once filed;
- (c) Misrepresenting the status of pending legal matters;
- (d) Failing to properly advise the plaintiffs as to the legal basis of any claims pursued by the defendant, McNeer, Highland, McMunn and Varner, L.C., on behalf of the plaintiffs;
- (e) Inflating time entries and charges to the plaintiffs; and,
- (f) Requesting that the plaintiffs pay expenses incurred by individual shareholders of the defendant based upon the representation of such shareholder that the plaintiffs would be given credit with respect to legal services performed, however, no such credit was ever provided.

25. As a direct and proximate result of the breach of these duties and obligations by the defendant, McNeer, Highland, McMunn and Varner, L.C., to the plaintiffs the plaintiffs have been severely injured and damaged.

26. The conduct of the defendant as alleged herein was intentional and is the result of deliberate indifference to the rights of the plaintiffs.

27. The actions of the defendant were intentional, malicious, willful, oppressive and otherwise reflect a conscience disregard for the rights of the plaintiffs justifying an award of punitive damages.

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WHEREFORE, the plaintiff demands from the defendant the following relief:

- (a) Compensatory damages in an amount to be determined by the jury at the trial of this matter;
- (b) Punitive damages in an amount determined to be fair, equitable and proper by the jury;
- (c) Damages to compensate the plaintiffs for their annoyance, aggravation and inconvenience;
- (d) Pre-judgment and post-judgment interest, attorneys fees and costs as determined to be appropriate by the court; and,
- (e) Any and all other relief proved by the evidence at the trial of this matter or deemed appropriate by the Court.

THE PLAINTIFFS DEMAND A TRIAL BY JURY.



Gregory H. Schillace
State Bar No. 5597

Counsel for the Plaintiffs

Schillace Law Office
Post Office Box 1526
Clarksburg, WV 26302-1526
Telephone: 304-624-1000
Facsimile: 304-624-9100