

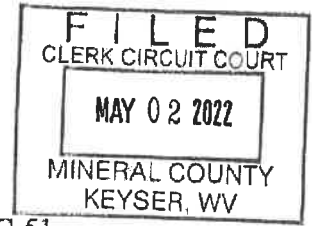
IN THE CIRCUIT COURT OF MINERAL COUNTY, WEST VIRGINIA

THE HANSEN-GIER FAMILY TRUST
OF APRIL 22, 2016, by its Trustees,
CARL C. HANSEN and
VIRGINIA M. GIER
Plaintiff,

VS

R. MICHAEL HAYWOOD, and
JOANN T. HAYWOOD
Defendants.

CIVIL ACTION NO. 21-C-51
JUDGE NELSON



DECLARATORY JUDGMENT ORDER

On this the 12TH day of April, 2022, came the Parties in person and by their respective counsel upon a Trial Before the Court on the Declaratory Judgment Action filed by Plaintiff. The parties informed the Court that they were ready to proceed.

Counsel for the Plaintiff made an opening statement and submitted documents to the Court without objection from Defendant. Plaintiff then called Carl C. Hansen to testify and the witness was sworn. Defendant made objection to the relevancy and the objection was overruled. The Witness was examined and the Defendant was permitted to cross-examine the witness. Plaintiff introduced maps and photographs. Defendant introduced one Deed. All exhibits introduced were moved into evidence and the Plaintiff rested its case.

Defendant then made opening statement, cited points of law and argued that the document was not ambiguous. If there be no ambiguity, the Court could declare the rights and interests of the parties based upon the document. Plaintiff made a rebuttal and offered that the document was ambiguous. The Court declared that it wished to hear further testimony before ruling.

Defendant called R. Michael Haywood to testify and the witness was sworn. The witness was examined and the Plaintiff was permitted opportunity to cross-examine. The Defendant then

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rested his case.

Based upon the record in this matter and the evidence presented at trial the Court makes the following findings of fact and conclusions of law:

1. The parties and the subject matter are proper for the Court to declare the rights in this case pursuant to West Virginia Code §55-13-1 *et seq.*;
2. The 1997 deed from Defendant to Clyde and Sherry Paugh contained a reservation of shale that states “The Grantors also reserve for themselves, their heirs and assigns, the use of the shale pit which is located on said conveyed real estate for use on ingress and egress roads of the development property”;
3. It appears that the parties do not agree on what was meant by “the development property”;
4. The reservation was incorporated into the following deeds in Plaintiff’s chain of title and Plaintiff was aware of this reservation when they purchased the property in 2003;
5. The reservation runs with the land and continues to exist;
6. At the time of the creation of the reservation the Defendant owned considerable acreage and continues to develop the property;
7. The parties to the original deed creating the reservation intended the shale to be used upon property that the Defendant develops;

Based upon the findings of fact and conclusions of law the Court does hereby DECLARE that the Defendants, R. Michael Haywood and Joann T. Haywood, possess, via a reservation, the ownership rights to the shale located upon the property now owned by Plaintiff as well as the right to gain access to remove the shale for property that the Defendants develop.

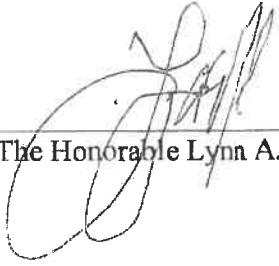
All objections to adverse rulings are hereby saved.

Pursuant to the agreement of the parties this case was bifurcated by prior order of the Court. The only issue remaining would be the counterclaims of the Defendant. The parties requested an opportunity to settle those claims and informed the Court that if settlement was not possible, they would contact the Court to schedule a bench trial on the counterclaim.

Today's proceedings were recorded and are intended to be incorporated into this order textually verbatim. The Clerk is directed to provide copies of this order to counsel of record.

Nothing further to be done the Declaratory Judgment action is adjudicated final. The counterclaim stands continued generally.

Entered this the 2 day of MAY, 2022.



The Honorable Lynn A. Nelson, Judge

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Clerk Circuit/Family Court of Mineral County, WV

IN THE CIRCUIT COURT OF MINERAL COUNTY, WEST VIRGINIA

THE HANSEN-GIER FAMILY TRUST
OF APRIL 22, 2016, by its Trustees,
CARL C. HANSEN and
VIRGINIA M. GIER,

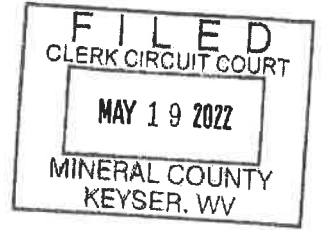
Plaintiff,

v.

R. MICHAEL HAYWOOD, and
JOANN T. HAYWOOD

Defendants.

Civil Action No. 21-C-51
(Judge Nelson)



AMENDED DECLARATORY JUDGMENT ORDER

On this the 12th day of April, 2022, came the Parties in person and by their respective counsel upon a Trial Before the Court on the Declaratory Judgment Action filed by Plaintiff. The parties informed the Court that they were ready to proceed.

Counsel for the Plaintiff made an opening statement and submitted documents to the Court without objection from Defendant. Plaintiff then called Carl C. Hansen to testify and the witness was sworn. Defendant made objection to the relevancy and the objection was overruled. The Witness was examined and the Defendant was permitted to cross-examine the witness. Plaintiff introduced maps and photographs. Defendant introduced one Deed. All exhibits introduced were moved into evidence and the Plaintiff rested its case.

Defendant then made opening statement, cited points of law and argued that the document was not ambiguous. If there be no ambiguity, the Court could declare the rights and interests of the parties based upon the document. Plaintiff made a rebuttal and offered that the document was ambiguous. The Court declared that it wished to hear further testimony before ruling.

Defendant called R. Michael Haywood to testify and the witness was sworn. The witness

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J. Brill
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was examined and the Plaintiff was permitted opportunity to cross-examine. The Defendant then rested his case.

Based upon the record in this matter and the evidence presented at trial the Court makes the following findings of fact and conclusions of law:

1. The parties and the subject matter are proper for the Court to declare the rights in this case pursuant to West Virginia Code §55-13-1 et seq.;
2. The 1997 deed from Defendant to Clyde and Sherry Paugh contained a reservation of shale that states "The Grantors also reserve for themselves, their heirs and assigns, the use of the shale pit which is located on said conveyed real estate for use on ingress and egress roads of the development property";
3. It appears that the parties do not agree on what was meant by "the development property";
4. The reservation was incorporated into the following deeds in Plaintiffs chain of title and Plaintiff was aware of this reservation when they purchased the property in 2003;
5. The reservation runs with the land and continues to exist;
6. At the time of the creation of the reservation the Defendant owned considerable acreage and continues to develop the property;
7. The parties to the original deed creating the reservation intended the shale to be used upon property that the Defendant develops;

Based upon the findings of fact and conclusions of law the Court does hereby DECLARE that the Defendants, R. Michael Haywood and Joann T. Haywood, possess, via a reservation, the ownership rights to the shale located upon the property now owned by Plaintiff as well as the right to gain access to remove the shale for property that the Defendants develop.

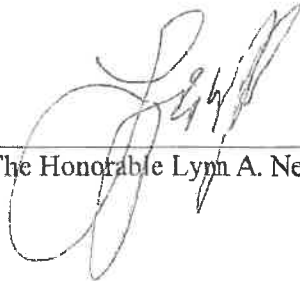
All objections to adverse rulings are hereby saved.

Pursuant to the agreement of the parties this case was bifurcated by prior order of the Court. The only issue remaining would be the counterclaims of tile Defendant. The parties requested an opportunity to settle those claims and informed the Court that if settlement was not possible, they would contact the Court to schedule a trial on the counterclaim.

Today's proceedings were recorded and are intended to be incorporated into this order textually verbatim. The Clerk is directed to provide copies of this order to counsel of record.

Nothing further to be done the Declaratory Judgment action is adjudicated final. The counterclaim stands continued generally.

Entered this the 18 day of MAY, 2022.



The Honorable Lynn A. Nelson, Judge

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Clerk Circuit/Family Court of Mineral County, WV