

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

ALEX ENERGY, INC., d/b/a EDWIGHT
MINING COMPANY, a West Virginia
corporation, INDEPENDENCE COAL
COMPANY, INC., a West Virginia corporation,
and MARFORK COAL COMPANY, INC., a
West Virginia corporation,

Plaintiffs,

v.

CIVIL ACTION NO. 09-C-187-B
CIVIL ACTION NO. 09-C-188-B
CIVIL ACTION NO. 09-C-189-B

ANTRIM LAURA CASKEY, GLEN COLLINS,
JAMES GERARD MCGUINNESS, RORY MCILMOIL,
MICHAEL LEE ROSELLE, and CHAD STEVENS,

Defendants.

**MOTION TO EXTEND THE TEMPORARY RESTRAINING ORDER AND CONTINUE
THE HEARING ON PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

Pursuant to Rules 6(a) and 65 of the West Virginia Rules of Civil Procedure, Plaintiffs, Alex Energy, Inc., d/b/a Edwight Mining Company, Independence Coal Company, Inc., and Marfork Coal Company, Inc. (collectively referred to as "Plaintiffs"), move the Court to extend the Temporary Restraining Order ("TRO") entered in the above-captioned cases until March 24, 2009, at 11:59 p.m., and continue the hearing on Plaintiffs' Motion for a Preliminary Injunction until such date.¹ Good cause exists for the Court to extend the TRO to March 24, 2009, at which point the above-captioned cases can be consolidated with Goals Coal Company, et al. v. Gorman, et al., Civil Action Nos. 09-C-209-B and 09-C-210-B, for a preliminary injunction hearing and further proceedings. On March 6, 2009, the Honorable Robert Burnside granted a temporary restraining order against the defendants in Goals Coal Company, et al. v. Gorman, et al., for

¹ A proposed Order Granting Plaintiffs' Motion to Extend the Temporary Restraining Order and Continue the Hearing on Plaintiffs' Motion for a Preliminary Injunction is attached.

engaging in similar trespasses in connection with Goals Coal Company and Alex Energy, Inc. d/b/a Edwight Mining Company as the Defendants in this case. In further support of their Motion, Plaintiffs state as follows:

1. On February 27, 2009, the Court entered a TRO that temporarily enjoined and prohibited:

Defendants, jointly and severally, and also their agents, employees, associates, representatives, and all other persons allied, associated, confederating, conspiring, or acting in concert with them, or aiding or abetting said Defendants, and all others to whom knowledge of this Order shall come . . .

(a) [from] [t]respassing or otherwise congregating on any of the mining properties of corporate entities affiliated with A.T. Massey Coal Company, Inc. and Massey Energy Company, including but not limited to the Beetree Surface Mine and Edwight Surface Mine properties in Raleigh County, West Virginia;

(b) Interfering, obstructing, blocking, impeding or tampering with any coal operating equipment, trucks or other vehicles of any of the corporate entities affiliated with A.T. Massey Coal Company, Inc. and Massey Energy Company, including but not limited to Plaintiffs, no matter where such equipment, trucks or other vehicle may be located; and

(c) Doing any other unlawful act of any kind to interfere with or prevent Plaintiffs from conducting their businesses in a lawful manner.

Order Granting Temporary Restraining Order, p. 5, Alex Energy, Inc., et al. v. Caskey, et al., Nos. 09-C-187-B, 09-C-188-B, 09-C-189-B (Cir. Ct. Raleigh Co. W. Va.).

2. Absent an extension, the TRO will expire on March 9, 2009.²

² Under the Rules of Civil Procedure, in computing any period of time that is fewer than 11 days, the day of the act, event, or default from which the designated period of time begins to run shall not be included, nor shall intermediate Saturdays and Sundays. W. Va. R. Civ. P. 6(a). Even if Defendants were never afforded notice of the TRO, under Rule 6(a)'s business day standard, the ten day TRO originally granted could have run until March 13, 2009. Additionally, even if the Court had extended the TRO an additional ten business days without notice to Defendants, the TRO would have run until March 27, 2009, a date later than the date to which Plaintiffs seek to extend the TRO in the instant motion.

3. West Virginia Rule of Civil Procedure 65(b) provides specific requirements that must be satisfied and limitations that must be adhered to when a temporary restraining order is granted and later extended **without notice** to the adverse party.

4. Under Rule 65(b), when an extension of a temporary restraining order is obtained **without notice** to the party or parties sought to be restrained, such extension cannot exceed the maximum allowable period for the original temporary restraining order – i.e., ten business days.³ W. Va. R. Civ. P. 65(b); see also W. Va. R. Civ. P. 6(a). The resulting maximum allowable time period for a temporary restraining order granted and extended **without notice** to the adverse party is twenty business days.

5. In the instant case, Plaintiffs made reasonable efforts to notify Defendants of the filing of the Verified Complaint and Motion for Temporary Restraining Order in advance of the hearing on the Temporary Restraining Order. In fact, Plaintiffs' counsel spoke with Defendant Roselle and emailed him all of the operative court papers before the hearing. Once the TRO was issued, Plaintiffs went to considerable lengths to notify Defendants of the February 27, 2009 TRO and March 9, 2009 hearing. Specifically, Plaintiffs personally served Defendants Collins, McGuinness and Roselle, left copies of the pleadings at their local addresses and mailed copies of the pleadings to the addresses that these Defendants' provided to the West Virginia State Police when they were cited for the various criminal trespasses they committed against Plaintiffs. Additionally, Defendants shared information and documents among themselves.⁴

6. Without question, Defendants were aware of the TRO and hearing. On various websites, including but not limited to the Climate Ground Zero Website

³ The intent behind limiting the length of extensions granted without notice is clear – to encourage the moving party to engage in the adversarial process rather than promote ex parte proceedings and to protect the rights and interests of absent parties while they remain a stranger to the litigation.

⁴ See Plaintiffs' Certificate of Service filed March 9, 2009, and Affidavit of Service filed March 9, 2009.

(www.climategroundzero.com) and Facebook (www.facebook.com), Defendants openly discussed (i) the February 27, 2009 TRO entered against them, (ii) the March 9, 2009 hearing, and (iii) Defendants' preparations for their "face down with Judge Hutchinson, Massey's judge."

7. What truly takes this case outside of Rule 65(b), however, is Defendants' notice of and attendance at the March 9, 2009 hearing to contest the TRO. Defendants cannot, in good conscience, argue that they were unaware of the TRO or March 9, 2009 hearing when they voluntarily appeared at that very proceeding or made a conscious decision not to do so. Accordingly, the twenty day time limitation imposed by Rule 65(b) on temporary restraining orders granted and extended **without notice** is inapplicable.⁵

8. Because the Court is not constricted by Rule 65(b)'s time limitations, it is within the purview of the Court to extend the TRO for a period greater than ten business days. Accordingly, Plaintiffs respectfully request that the Court extend the TRO until March 24, 2009, 11:59 p.m., and continue the hearing on Plaintiffs' Motion for a Preliminary Injunction until such date. The Honorable Robert Burnside, who is presiding over Goals Coal Company, et al. v. Gorman, et al., has been advised of the similarity of these two cases and the likelihood of consolidation (or at least a motion to consolidate), and he has advised that he can be available for a preliminary injunction hearing on March 24, 2009.

9. Even though the instant case falls outside of the scope of Rule 65(b), good cause nevertheless exists to permit the extension of the TRO until March 24, 2009, at 11:59 p.m.

⁵ Even if the twenty business day rule for temporary restraining orders granted and extended **without notice** was applicable, extending the TRO to March 24, 2009 is still well within twenty business days from the date the TRO was initially granted. Ten business days from the date the TRO was granted – February 27, 2009 – is March 13, 2009. An extension of ten business days for good cause shown would mean the TRO, even if it were extended **without notice** to Defendants, would expire on March 27, 2009, three business days after the date sought by Plaintiffs – March 24, 2009.

10. Rule 65(b) does not define “good cause,” but courts have found “good cause” in a number of scenarios, including the necessity of additional time to present a preliminary injunction despite diligent efforts to do so in the time allotted. Flying Cross Check, L.L.C. v. Central Hockey League, Inc., 153 F. Supp. 2d 1253, 1260-61 (D.Kan. 2001). Additionally, a TRO can be extended in order to ensure that all necessary parties to the case are identified and before the court or to otherwise resolve scheduling conflicts. Cuin v. Prudential Life Ins. Co., 2008 WL 527309 (D.Colo. 2008); Flying Cross Check, 153 F. Supp. 2d at 1260-61.

11. Good cause unquestionably exists in this case. To date, Plaintiffs have exercised considerable efforts to locate and serve process on a number of the above-named Defendants, with mixed results (although they all should have notice and copies of the court papers). Plaintiffs’ efforts have been hindered, in part, by invalid addresses provided by Defendants to the West Virginia State Police, the fact that some Defendants left the local area and state (both before and after the TRO issued), and, most likely, by evasive tactics and/or a lack of cooperation to avoid service. Good cause exists to extend the TRO until March 24, 2009, so as to provide Plaintiffs additional time to serve Defendants and ensure they are properly before Court.

12. Furthermore, Plaintiffs require additional time in order adequately prepare for the preliminary injunction hearing due to an unanticipated increase in the size and scope of this case. On Thursday, March 5, 2009, Joseph Gorman, Cassandra Jo Rice, Andrew R. Munn, Nicole Ruth Motson and Mathew Solomon Louis-Rosenberg (collectively referred to as “Trespassers”), trespassed onto the Goals Property, which is controlled by Goals Coal Company, a corporate entity affiliated with A.T. Massey and Massey Energy, and located in Raleigh County, West Virginia. While on the Goals Property, the Trespassers displayed a banner reading “STOP

BLASTING, SAVE THE KIDS” and blocked a surface haulage road that leads onto Alex Energy’s Edwight Surface Mine.

13. There is substantial evidence to support the contention that the Trespassers are allied, associated, confederating, conspiring, or acting in concert with, or aiding or abetting the above-named Defendants, and vice versa.⁶

14. In light of the most recent trespasses, and in order to conserve judicial resources and avoid the possibility of conflicting judgments, it is highly likely that the instant action and the Goals case will be consolidate. The Goals case and instant action clearly involve common questions of law and fact and, upon information and belief, parties defendant who are acting in concert with the above-named Defendants. Judge Burnside has been consulted about his availability and can hear Plaintiffs’ Motion for Preliminary Injunction on March 24, 2009. Consolidation of the two cases would necessitate that Plaintiffs be afforded additional time to adequately prepare for a preliminary injunction hearing nearly double in size from what was originally anticipated.

15. Additionally, good cause exists because of scheduling conflicts. While awaiting a ruling in the instant action, Judge Burnside, who has been assigned the instant case as well as Goals, has tentatively calendared the preliminary injunction hearing in Goals for March 19, 2009, but with the understanding that Plaintiffs’ counsel is out of state on the 19th and unable to

⁶ Specifically, the following evidence supports the contention that the Trespassers and above-named Defendants are acting in concert: (i) upon information and belief, the Trespassers were accompanied and photographed by Defendant Antrim Laura Caskey who later published such photographs on the Climate Ground Zero website, the organization in which Defendants McGuinness and Roselle are known members; (ii) a video of Trespassers’ March 5, 2009 trespass was published on the Climate Ground Zero website; (iii) after the Trespassers were cited for trespass, Defendant McGuinness admitted that he was “excited five young people were arrested on the Shumate Dam today and is partying with them;” (iv) Defendant Collins is a known associate of Matthew Solomon Louis Rosenberg, a Trespasser in Goals, through the Prenter Water Fund; (v) Nicole Ruth Motson, a Trespasser in Goals, was served with process on or about the property where Defendants McGuinness and Roselle are currently residing, while some of the Defendants in this case were partying with some of the Trespassers in Goals. Perhaps most important, web articles posted by some of the Trespassers clearly refer to the fact that “Massey” earlier had obtained a TRO against Mike Roselle and other members of Climate Ground Zero.

attend a hearing on that date. Additionally, Plaintiffs' witnesses are unavailable to Plaintiffs' counsel March 16, 2009 until March 18, 2009.

16. Extending the TRO until March 24, 2009, at 11:59 p.m., would not prejudice Defendants because they are only being restrained from engaging in criminal and tortious conduct for which they have no justification or defense. The TRO merely requires Defendants to comply with the laws of the State of West Virginia and extending the Order until March 24, 2009, will impose no more of a restriction on Defendants than is imposed on every other person who enters the state. In light of the scheduling limitations of the Court, good faith attempts by Plaintiffs counsel to make themselves available at a date and time convenient for the Court, and absence of prejudice to Defendants, good cause exists to extend the TRO until March 24, 2009, at 11:59 p.m.

17. Even if the instant case is controlled by Rule 65(b)'s time limitation, the Court is nevertheless afforded discretion to extend a temporary restraining order for good cause beyond the suggested twenty day statutory period.

18. It is well established that, while the twenty day period of Rule 65(b) "cannot be extended indefinitely, . . . the [trial court] should conduct a hearing on the issuance of a preliminary injunction **within the twenty day period or very shortly thereafter . . .**" State of Maine v. Fri, 483 F.2d 439, (1st Cir. 1973) (emphasis added). Additionally, "if the moving party has exercised good faith in seeking the preliminary injunction hearing but has been unsuccessful . . . and the danger of irreparable harm continues to exist, there is every reason for extending the temporary restraining order beyond the twenty days and the court should have discretion to do so." 11 Wright, Miller & Kane, Federal Practice and Procedure: Civil 2d § 2953 at 282 (1995).

19. In the instant case, the TRO is set to expire March 9, 2009. Ten business days from March 9, 2009 is March 23, 2009. Plaintiffs are moving the Court to extend the TRO one additional day until the March 24, 2009.⁷ As Defendants are only being restrained from breaking the law, it is well within this Court's discretion to extend the TRO an additional day, at which point a hearing on Plaintiffs' Motion for a Preliminary Injunction will be heard by the Court.

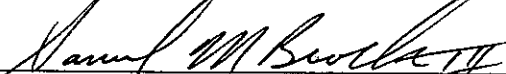
20. Failure to extend the TRO will result in immediate and irreparable harm to Plaintiffs.

21. Plaintiffs do not have an adequate remedy at law and will succeed on the merits of the claims set forth in their Verified Complaint.

WHEREFORE, Plaintiffs respectfully request this Court enter an order extending the February 27, 2009, Temporary Restraining Order until March 24, 2009, at 11:59 p.m., and continue the hearing on Plaintiffs' Motion for a Preliminary Injunction until such date.

**ALEX ENERGY, INC., d/b/a EDWIGHT
MINING COMPANY,
INDEPENDENCE COAL COMPANY, INC.,
MARFORK COAL COMPANY, INC.,**

BY: SPILMAN THOMAS & BATTLE, PLLC



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⁷ Importantly, under Rule 6(a)'s business day standard for periods of time that are less than 11 days, under Rule 65(b) the ten day TRO originally granted by the Court could have run until March 13, 2009 and if extended **without notice** for good cause could have run until March 27, 2009, a date **later than** the date to which Plaintiffs seek to extend the TRO in the instant motion.

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

ALEX ENERGY, INC., d/b/a EDWIGHT
MINING COMPANY, a West Virginia
corporation, INDEPENDENCE COAL
COMPANY, INC., a West Virginia corporation,
and MARFORK COAL COMPANY, INC., a
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CIVIL ACTION NO. 09-C-187-B
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ANTRIM LAURA CASKEY, GLEN COLLINS,
JAMES GERARD MCGUINNESS, RORY MCILMOIL,
MICHAEL LEE ROSELLE, and CHAD STEVENS,

Defendants.

**ORDER GRANTING PLAINTIFFS' MOTION TO EXTEND
THE TEMPORARY RESTRAINING ORDER AND CONTINUE THE
HEARING ON PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

This matter comes before the Court on the Motion to Extend the Temporary Restraining Order and Continue the Hearing on Plaintiffs' Motion for a Preliminary Injunction filed by Plaintiffs Alex Energy, Inc., d/b/a Edwight Mining Company, Independence Coal Company, Inc., and Marfork Coal Company, Inc. (collectively referred to as "Plaintiffs"). For the reasons stated herein, Plaintiffs' Motion is **GRANTED**.

A. Legal Standard

1. West Virginia Rule of Civil Procedure 65(b) delineates specific requirements that must be satisfied and limitations that must be adhered to when a temporary restraining order is granted and later extended without notice to the adverse party.

2. Under Rule 65(b), when an extension of a temporary restraining order is obtained without notice to the party or parties sought to be restrained, such extension cannot exceed the maximum allowable period for the original temporary restraining order – i.e., ten business days.

3. The resulting maximum allowable time period for a temporary restraining order granted and extended without notice to the adverse party is twenty business days.

4. The time limitations imposed by Rule 65(b), however, do not apply if the adverse party is provided notice that a temporary restraining order is going to be granted or extended.

5. Under the Rules of Civil Procedure, in computing any period of time that is fewer than 11 days, the day of the act, event, or default from which the designated period of time begins to run shall not be included, nor shall intermediate Saturdays and Sundays. W. Va. R. Civ. P. 6(a).

B. Findings and Conclusions of Law

1. The matter before the Court involves the continuing trespasses by the above-named Defendants, and persons acting in concert, allied, associated or confederating with said Defendants, onto mining properties in Raleigh County, West Virginia in which Plaintiffs have the lawful rights of use and possession.

2. On February 27, 2009, upon Plaintiffs' Verified Complaint and accompanying Affidavit, the Court issued a Temporary Restraining Order against the above-named Defendants. See Order Granting Temporary Restraining Order, p. 5, Alex Energy, Inc., et al. v. Caskey, et al., Nos. 09-C-187-B, 09-C-188-B and 09-C-189-B (Cir. Ct. Raleigh Co. W. Va.).

3. Upon issuing the Temporary Restraining Order, the Court set a hearing for March 9, 2009, at 9:00 a.m., on Plaintiffs' Motion for a Preliminary Injunction.

4. The Temporary Restraining Order runs to Monday, March 9, 2009, if not otherwise extended.

5. By motion dated March 9, 2009, Plaintiffs moved the Court to extend the Temporary Restraining Order until March 24, 2009, at 11:59 p.m., and continue the hearing on Plaintiffs' Motion for a Preliminary Injunction until March 24, 2009.

6. In support of their Motion, Plaintiffs stated, and I find, that:

a. Rule 65(b)'s time limitations are inapplicable because Defendants had notice of the TRO and March 9, 2009 hearing and appeared at the hearing (and/or could have appeared at the hearing) to contest the validity of the TRO;

b. In any event, the extension requested by Plaintiffs, with notice, causes the initial TRO and extension to run for a period of fewer days than Rule 65 allows when no notice has been provided to Defendants;

c. If Rule 65(b) does apply, the twenty day requirement is discretionary if good cause exists to extend the TRO, particularly after the hearing afforded Defendants on March 9, 2009;

d. Defendants are not prejudiced by an extension of the TRO because they are only being restrained from breaking the law; and

e. Plaintiffs will be irreparably harmed if the TRO is not extended, and the balance of harms between the parties clearly weight in favor of Plaintiffs.

The Court finds that under these circumstances and for such reasons as hereinafter stated, Plaintiffs' Motion is **GRANTED**, the TRO extended until March 24, 2009, at 11:59 p.m., and the hearing on Plaintiffs' Motion for a Preliminary Injunction continued until such date and time as herein stated.

7. The Court further finds that Plaintiffs have advanced good cause to extend the TRO until March 24, 2009 – to-wit, Plaintiffs’ difficulty in serving process on a number of the above-named Defendants, the need for additional time to consolidate the instant case with Goals Coal Company, et al. v. Gorman, et al., Civil Action Nos. 09-C-209-B and 09-C-210-B, and scheduling conflicts that prevent Plaintiffs’ counsel from attending the hearing scheduled for March 19, 2009

8. The Court further finds an absence of prejudice to Defendants. In granting the TRO, the Court recognized that Defendants are merely being required to refrain from breaking the law. As Defendants have no recognized legal interest in unlawfully trespassing onto Plaintiffs’ property, and tortiously interfering with the coal mining properties of Plaintiffs and other corporate entities affiliated with A.T. Massey Coal Company, Inc. and Massey Energy Company, the continued extension and enforcement of the TRO until March 24, 2009, 11:59 p.m., is proper.

9. The danger of immediate and irreparable harm to Plaintiffs continues to exist and thus extending the TRO is appropriate.

10. Plaintiffs are likely to prevail on the merits of the claims asserted in their Verified Complaint and in the absence of injunctive relief, Plaintiffs are without an adequate remedy at law.

11. Defendants have no lawful right to engage in the unlawful activities described herein and set forth in the Verified Complaint. Defendants shall suffer no harm from being enjoined or restricted from engaging in such unlawful activity. In the absence of such TRO, Plaintiffs will be irreparably harmed by the continued unlawful and tortious conduct described above.

Accordingly, it is hereby:

ORDERED that Plaintiffs' Motion to Extend the Temporary Restraining Order and Continue the Hearing on Plaintiffs' Motion for a Preliminary Injunction is **GRANTED**.

It is further **ORDERED** that the hearing on Plaintiffs' Motion for a Preliminary Injunction originally scheduled for March 9, 2009 at 9:00 a.m. is **CONTINUED** and **RESCHEDULED** for March 24, 2009, at ____ a.m.

It is further **ORDERED** that the Temporary Restraining Order shall be extended and continue in full force and effect until March 24, 2009, at 11:59 p.m. Defendants, jointly and severally, and also their agents, employees, associates, representatives, and all other persons allied, associated, confederating, conspiring, or acting in concert with them, or aiding or abetting said Defendants, and all others to whom knowledge of this Order shall come, shall continue to be **TEMPORARILY RESTRAINED AND ENJOINED** from engaging in the following:

- (a) Trespassing or otherwise congregating on any of the mining properties of corporate entities affiliated with A.T. Massey Coal Company, Inc. and Massey Energy Company, including but not limited to the Beetree Surface Mine and Edwight Surface Mine properties in Raleigh County, West Virginia;
- (b) Interfering, obstructing, blocking, impeding or tampering with any coal operating equipment, trucks or other vehicles of any of the corporate entities affiliated with A.T. Massey Coal Company, Inc. and Massey Energy Company, including but not limited to Plaintiffs, no matter where such equipment, trucks or other vehicle may be located; and
- (c) Doing any other unlawful act of any kind to interfere with or prevent Plaintiffs from conducting their businesses in a lawful manner.

It is further **ORDERED** that the West Virginia State Police remove any Defendants who enter or attempt to enter the mine properties of corporate entities affiliated with A.T. Massey Coal Company, Inc. and Massey Energy Company, including but not limited to the Beetree Surface Mine and Edwight Surface Mine

properties and remove any signs or other such materials from the properties posted or left by Defendants.

It is further **ORDERED** that copies of this Order shall forthwith be served upon the Defendants, and service thereof shall be due notice to them, and to each of them, of this Temporary Restraining Order and of the hearing upon the application of Plaintiffs for Preliminary Injunction and copies of this Order shall be posted in conspicuous places at or about the entrances to the Beetree Surface Mine and Edwight Surface Mine, or on the roads leading to said properties, and such posting thereof shall be prima facie evidence of due notice to Defendants and to all persons acting with the named Defendants herein, or with each other.

Order Granting Temporary Restraining Order, p. 5, Alex Energy, Inc., et al. v. Caskey, et al., Nos. 09-C-187-B, 09-C-188-B and 09-C-189-B (Cir. Ct. Raleigh Co. W. Va.).

The Temporary Restraining Order shall expire, if not extended, modified or dissolved before then, on March 24, 2009, at 11:59 p.m.

It is further **DECREED** that Plaintiffs' need not file additional bonds with the Clerk. The February 27, 2009 bonds filed by each named Plaintiff in their individual capacity for the amounts of Ten Thousand Dollars (\$10,000.00), conditioned to pay all costs and damages which may be incurred or sustained by Defendants by reason of a later determination that they have been wrongly enjoined or restrained by the entry of the February 27, 2009 Temporary Restraining Order, shall remain in full force and effect for the duration of the extension of the Temporary Restraining Order.

Issued this ___ day of _____, 2009, at _____ .m.

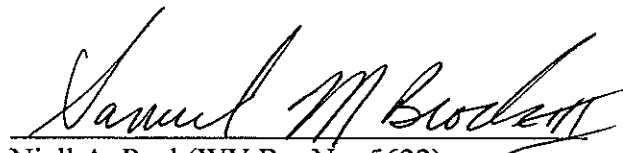
Defendants' objections and exceptions are noted.

ENTERED:

Honorable John A. Hutchinson
Circuit Court Raleigh County, West Virginia

PRESENTED BY:

SPILMAN THOMAS & BATTLE, PLLC

A handwritten signature in cursive script, reading "Samuel M. Brock". The signature is written in black ink and is positioned above a horizontal line.

Niall A. Paul (WV Bar No. 5622)

Samuel M. Brock (WV Bar No. 9216)

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**ANTRIM LAURA CASKEY, GLEN COLLINS,
JAMES GERARD MCGUINNESS, RORY MCILMOIL,
MICHAEL LEE ROSELLE, and CHAD STEVENS,**

Defendants.

CERTIFICATE OF SERVICE

I, Samuel Brock, hereby certify that service of a true copy of the foregoing documents was made on **Monday, March 9, 2009** by e-mail and facsimile to the Honorable John Hutchinson and by email to Defendant Michael Lee Roselle, by hand delivery on any of the above-named Defendants that attended the hearing scheduled in the above-captioned case for 9:00 a.m. on Monday, March 9, 2009 at the Circuit Court of Raleigh County, and by placing a true and correct copy thereof in the regular U. S. Mail, postage prepaid, on **March 9, 2009** to the following addresses of record:

Antrim Laura Caskey
107 Ford Addition,
Rock Creek, WV 25174

Antrim Laura Caskey
123 Ford Addition,
Rock Creek, WV 25174


Glen Collins
117 Ford Addition
Rock Creek, WV 25174

James Gerard McGuiness
123 Ford Addition,
Rock Creek, WV 25174

Rory McIlmoil
117 Ford Addition,
Rock Creek, WV 25174

Michael Lee Roselle
123 Ford Addition,
Rock Creek, WV 25174

Chad Stevens
110 W. Union Street, Apt. 2
Athens, OH 45701


Samuel M. Brock, III