

COMMONWEALTH OF KENTUCKY
FLOYD CIRCUIT COURT
DIVISION NO. _____

C.A. NO.: _____

AMBER CAMPBELL, JIMMY CAMPBELL,
JERRY CAMPBELL, ELSIE CAMPBELL,
LORETTA CONN, JUNIOR CONN, RUSSELL
CONN, LARRY ROBERTS, SANDRA ROBERTS,
JAMES TACKETT, RHONDA TACKETT, CHRISTY TACKETT
and SCOTT TACKETT

PLAINTIFFS

VS.

COMPLAINT

CHEYENNE ENTERPRISES;
CLIFFCO ENTERPRISES INC.;
FCDC COAL INC.; NORTH STAR
MINING, INC.; MATT/CO, INC.;
RENEGADE ENTERPRISES, INC.;
MD TRUCKING, INC.; C & C TRUCKING, LLC;
HOPE TRANSPORT, INC.; and
K&H TRUCKING, INC.

NO: 11-CI-833 DIV. II
FILED 2 DAY OF August 2011
SUMMONS AND _____ COPIES ISSUED
FLOYD CIRCUIT & DISTRICT COURT
BY BA _____ D.C.

DEFENDANTS

SERVE: Cheyenne Enterprises, Inc.
Greg Damron
P.O. Box 2767
1214 North Mayo Trial (Linton Bldg)
Pikeville, Kentucky 41501

Cliffco Enterprises, Inc.
Cliff Bartley
240 Cowpen Road, Suite #210
Pikeville, Kentucky 41501

FCDC Coal, Inc.
Elbert Foley
4189 Collins Hwy.
Pikeville, Kentucky 41501

North Star Mining, Inc.
Carl Kirk
28427 US Rt. 23
Catlettsburg, Kentucky 41127

Matt/Co, Inc.
Clark D. Pergrem

439 Meadows Branch
Prestonsburg, Kentucky 41653

Renegade Enterprises, Inc.
Morgan Chaney
Island Creek Road
P.O. Box 175
Phyllis, Kentucky 41554

M D Trucking, Inc.
Martha J. Davis
5659 KY Route 850
Hippo, Kentucky 41653

C&C Trucking, LLC
Luanne Colvin
2018 Wooleyville Road
Campbellsville, Kentucky 42718

Hope Transport, Inc.
Paul Little
Unit 2
Box 4
Martin Road
Minnie, Kentucky 41651

K&H Trucking, Inc.
Hugh Alan Hall
774 Kentucky Route 680
McDowell, Kentucky 41647

Come the Plaintiffs, by and through counsel, and for their complaint state as follows:

1. The Plaintiffs in this case state that they all reside on Cecil Branch in the Banner area of Floyd County, Kentucky.
2. The Plaintiffs, Amber Campbell and Jimmy Campbell, state that they are husband and wife, and own a residence located on 400 Cecil Branch, Banner, Kentucky.
3. The Plaintiffs, Elsie Campbell and Jerry Campbell, state that they are husband and

wife, and own a residence located on 380 Cecil Branch, Banner, Kentucky.

4. The Plaintiffs, Loretta Conn and Junior Conn, state that they are husband and wife, and own two parcels of property and two residences located on 190 Cecil Branch, Banner, Kentucky.

5. The Plaintiff, Russell Conn, owns one piece of property located at 505 Cecil Branch, Banner, Kentucky.

6. The Plaintiffs, Christy Tackett and Scott Tackett, state that they are husband and wife, and own a residence located on 252 Cecil Branch, Banner, Kentucky.

7. The Plaintiffs, James Tackett and Rhonda Tackett, state that they are husband and wife, and own one piece of property located on 487 Cecil Branch, Banner, Kentucky.

8. The Plaintiffs, Sandra Roberts and Larry Roberts, state that they are husband and wife, and own a residence located on 200 Cecil Branch, Banner, Kentucky.

9. The Defendants in this case are Cheyenne Enterprise, Cliffco Enterprises, Inc, FCDC Coal, Inc., North Star Mining, Inc., Matt/Co, Inc., Renegade Enterprises, Inc., MD Trucking, Inc., C&C Trucking, LLC, Hope Transport, Inc., and K&H Trucking.

10. The Defendants Cheyenne Enterprises, Cliffco Enterprises, Inc., FCDC Coal, Inc, North Star Mining, and Matt/Co Inc., are all coal companies. The Defendants Renegade Enterprises, MD Trucking, Inc., C&C Trucking, LLC, Hope Transport, Inc., and K&H Trucking all have contractual relationship with other Defendants and are trucking companies. All of the Defendants have conducted coal mining business in Floyd County, Kentucky.

11. The Plaintiffs state the coal mining activities of the Defendants and/or their Trucking Companies have caused their residences to become contaminated with coal dust and other pollutants.

12. The Plaintiffs state that the continuous coal dust and noise emitted from the

Defendants operations have caused a substantial and unreasonable interference in violation of the Plaintiffs rights to use, utilize and enjoy their homes and properties.

13. The Plaintiffs all state that they rely on the Cecil Branch Road for egress and ingress to their residences and that the Defendants have all caused the road to become dangerous thus contributing to the diminution in value of their residences.

14. The Plaintiffs state that approximately three years ago they began to notice coal dust problems in their area, which have gradually worsened.

15. The Plaintiffs state that the situation became much worse in 2010 and 2011, and all of the Plaintiffs allege that they believe there has been a diminution in value of all of their properties.

16. The Plaintiffs state that the Defendants actions constitute a nuisance and that there has been a trespass to the rights of the Plaintiffs and that coal dust has come on to the Plaintiffs' properties.

17. The Plaintiffs further allege that the Defendants are strictly liable for their conduct in that they are engaging in ultra hazardous activities and dangerous coal mining activities.

18. The Defendants Coal Trucking Companies have trespassed and run upon the property of Loretta Conn and Junior Conn.

19. The Plaintiffs state the Defendants have violated the relevant mining regulations in causing coal mining debris to escape from the permitted area. The Plaintiffs allege that a separate statutory cause of action under KRS 446.070, in that all of the Plaintiffs residences have received unwelcome coal mining debris coming from the properties of the Defendant coal companies.

20. The Plaintiffs state that they are all related to each other and that the Plaintiff, Jimmy Campbell, within the last year personally complained to agents of the Defendant Cheyenne Enterprises on behalf of the community as to the intolerable conditions. The Plaintiffs state that

when Jimmy Campbell complained to the agents of Cheyenne Coal Company, he was advised that it was the responsibility of the Floyd Fiscal Court. The Plaintiffs collectively disagree and asserts it was the Defendants who collectively destroyed their road and caused dust to invade their homes thus inhibiting their ability to fully utilize their properties, which contributed to a diminution in value of their prices of their residences.

21. The Plaintiffs state that Jimmy Campbell complaints as to the intolerable conditions were met with deliberate indifference by the Defendant Cheyenne Coal Company.

WHEREFOERE, the Plaintiffs seek relief as follows:

1. Judgment against all Defendants on behalf of all Plaintiffs.
2. An assessment of compensatory damages, including but not limited to diminution in value of their residence.
3. An assessment of punitive damages against all Defendants for their reckless disregard of the Plaintiffs' rights.
4. Trial by jury and Court costs and any and all other relief deemed appropriate, including attorney fees.

RESPECTFULLY SUBMITTED.

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