

COMMONWEALTH OF KENTUCKY
FLOYD CIRCUIT COURT
DIVISION NO. I
CIVIL ACTION NO. 10-CI-541

SUSAN BARNETTE, HOLLIE BLANTON,
WARREN BLANTON, FRENCH CAMPBELL,
WILLENA CAMPBELL, GENE DAVIS,
NORMA DAVIS, ERIC HAL, CARA HALL,
FRED HALL, MARY HALL, VALERIE HALL,
TOMMY HARMON, DIANA JOHNSON, GARNETT
LAFFERTY, HERBERT LAFFERTY, LARRY LAFFERTY,
TAMMY LAFFERTY, JONATHAN MORRIS, JULIE
MORRIS, ANGIE PRATER, DONNA REITZ, THOMAS REITZ,
LOWELL SAMMONS, MARY SAMMONS, LOWELL
SAMMONS, JR., EVELYN SAMMONS, ANGELA WATTS,
LEO WATTS, PEARL WATTS, RANDALL WATTS, JOHN
D. WEBB, CINDY WELLS, and CAROLYN WORRIX

PLAINTIFFS

VS. MOTION TO FILE FIRST AMENDED COMPLAINT

GRIZZLY PROCESSING, LLC.

and

FRASURE CREEK MINING, LLC

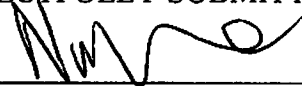
DEFENDANTS

Come the Plaintiffs, Susan Barnette, Hollie Blanton, Warren Blanton, French Campbell, Willena Campbell, Gene Davis, Norma Davis, Fred Hall, Mary Hall, Valerie Hall, Tommy Harmon, Diana Johnson, Garnett Lafferty, Herbert Lafferty, Larry Lafferty, Tammy Lafferty, Jonathan Morris, Julie Morris, Angie Prater, Donna Reitz, Thomas Reitz, Lowell Sammons, Mary Sammons, Lowell Sammons, Jr., Evelyn Sammons, Angela Watts, Leo Watts, Pearl Watts, Randall Watts, John D. Webb, Cindy Wells, and Carolyn Worrix, by and through counsel, and hereby ask that the attached amended complaint be filed. In support of this motion, the Plaintiffs ask that Anita Bartley, Michael Boyd, Michael Lee Boyd, Sabrina Boyd, Vickie Boyd, Edmona Calhoun, Tony Calhoun, Wanda L. Caudill, Damon D. Gayheart,

Clyde Hancock, Edith Hancock, Joseph Jones, Thelma Jones, Jammie Kinzer, Sherri Kinzer, Jerome Kinzer, Ruby Kinzer, Janie Lemaster, Mark Neely, Sharon Neely, Curtis Prater, Donald Prater, Sonja Ratliff, Mark Tackett, Marlene Tackett, Sharon Tackett, Marvin Tackett, Barbara Tackett, Wilkie Tackett, and Rosalane Tackett who reside near the Plaintiffs be allowed to proceed with their claims. The Plaintiffs state that Anita Bartley, Michael Boyd, Michael Lee Boyd, Sabrina Boyd, Vickie Boyd, Edmona Calhoun, Tony Calhoun, Wanda L. Caudill, Damon D. Gayheart, Clyde Hancock, Edith Hancock, Joseph Jones, Thelma Jones, Jammie Kinzer, Sherri Kinzer, Jerome Kinzer, Ruby Kinzer, Janie Lemaster, Mark Neely, Sharon Neely, Curtis Prater, Donald Prater, Sonja Ratliff, Mark Tackett, Marlene Tackett, Sharon Tackett, Marvin Tackett, Barbara Tackett, Wilkie Tackett, and Rosalane Tackett were harmed in the same manner as the Plaintiffs were in this action.

WHEREFORE, an appropriate order is sought allowing the filing of the attached amended complaint.

RESPECTFULLY SUBMITTED,



NED PILLERSDORF
PILLERSDORF, DEROSSETT & LANE
124 WEST COURT STREET
PRESTONSBURG, KENTUCKY 41653
PH: (606) 886-6090

NOTICE

Please take notice that the foregoing Motion will come for hearing before the Hon. Johnny Ray Harris, Judge, Floyd Circuit Court, on the 2nd day of July, 2010, at the hour of 9:00 a.m. or as soon thereafter as counsel may be heard.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Motion was served via mail delivery to: GRIZZLY PROCESSING, LLC., P.O. Box 1602, Princeton, West Virginia 24740; FRASURE CREEK MINING, LLC., 1051 Main Street, Milton, West Virginia 25541; ERIC

HALL AND CARA HALL, P.O. Box 335, Allen, Kentucky 41601; and the original to the CLERK, Floyd Circuit Court, Floyd County Justice Center, 127 South Lake Drive, Prestonsburg, Kentucky 41653; this the 13 day of June, 2010.



NED WILLERSDORF

COMMONWEALTH OF KENTUCKY
FLOYD CIRCUIT COURT
DIVISION NO. I
CIVIL ACTION NO. 10-CI-541

SUSAN BARNETTE, ANITA BARTLEY,
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SABRINA BOYD, VICKIE BOYD,
EDMONA CALHOUN, TONY CALHOUN,
FRENCH CAMPBELL, WILLENA CAMPBELL,
WANDA L. CAUDILL, GENE DAVIS,
NORMA DAVIS, DAMON D. GAYHEART,
ERIC HALL, CARA HALL, FRED HALL,
MARY HALL, VALERIE HALL, CLYDE
HANCOCK, EDITH HANCOCK,
TOMMY HARMON, DIANA JOHNSON, JOSEPH JONES,
THELMA JONES, JAMMIE KINZER, SHERRI KINZER,
JEROME KINZER, RUBY KINZER,
GARNETTLAFFERTY, HERBERT LAFFERTY,
LARRY LAFFERTY, TAMMY LAFFERTY,
JANIE LEMASTER,
JONATHAN MORRIS, JULIE MORRIS, MARK
NEELY, SHARON NEELY, ANGIE PRATER,
CURTIS PRATER, DONALD PRATER,
CLARA RATLIFF, TROY JOE RATLIFF,
SONJA RATLIFF, DONNA REITZ, THOMAS REITZ,
LOWELL SAMMONS, MARY SAMMONS, LOWELL
SAMMONS, JR., EVELYN SAMMONS,
MARK TACKETT, MARLENE TACKETT,
SHARON TACKETT, MARVIN TACKETT,
BARBARA TACKETT, WILKIE TACKETT,
ROSALENE TACKETT,
ANGELA WATTS, LEO WATTS, PEARL
WATTS, RANDALL WATTS, JOHN
D. WEBB, CINDY WELLS, and CAROLYN WORRIX

PLAINTIFFS

VS. FIRST AMENDED COMPLAINT

GRIZZLY PROCESSING, LLC.

and

FRASURE CREEK MINING, LLC

DEFENDANTS

**SERVE: Grizzly Processing, LLC
C/O Secretary of State
The Capitol Building
700 Capital Ave.
Suite 152
Frankfort, Kentucky 40601**

**Frasure Creek Mining, LLC
C/O Secretary of State
The Capitol Building
700 Capital Ave.
Suite 152
Frankfort, Kentucky 40601**

Come the Plaintiffs, Susan Barnette, Anita Bartley, Hollie Blanton, Warren Blanton, Michael Boyd, Michael Lee Boyd, Sabrina Boyd, Vickie Boyd, Edmona Calhoun, Tony Calhoun, French Campbell, Willena Campbell, Wanda L. Caudill, Gene Davis, Norma Davis, Damon D. Gayheart, Fred Hall, Mary Anne Hall, Valerie Hall, Clyde Hancock, Edith Hancock, Tommy Harmon, Diana Johnson, Joseph Jones, Thelma Jones, Jammie Kinzer, Sherri Kinzer, Jerome Kinzer, Ruby Kinzer, Garnett Lafferty, Herbert Lafferty, Larry Lafferty, Tammy Lafferty, Janie Lemaster, Jonathan Morris, Julie Morris, Mark Neely, Sharon Neely, Angie Prater, Curtis Prater, Donald Prater, Clara Ratliff, Troy Joe Ratliff, Sonja Ratliff, Donna Reitz, Thomas Reitz, Lowell Sammons, Mary Sammons, Lowell Sammons, Jr., Evelyn Sammons, Mark Tackett, Marlene Tackett, Sharon Tackett, Marvin Tackett, Barbara Tackett, Wilkie Tackett, Rosalene Tackett, Angela Watts, Leo Watts, Pearl Watts, Randall Watts, John D. Webb, Cindy Wells, and Carolyn Worrix, by and through counsel, and for their first amended complaint states as follows:

1. The Plaintiff Susan Barnett states that she owns a residence located in the Allen area of Floyd County, Kentucky.

2. The Plaintiff Anita Bartley states that she owns a residence located in the Allen area of Floyd County, Kentucky.

3. The Plaintiffs Warren Blanton and Hollie Blanton, state that they are husband and wife and own property on 46 Maple Street and at the Florence Hall Estates in the Allen area of Floyd County, Kentucky.

4. The Plaintiffs Michael Boyd and Vickie Boyd, state that they are husband and wife and own two properties in the Allen area of Floyd County, Kentucky.

5. The Plaintiffs Michael Lee Boyd and Sabrina Boyd, state that they are husband and wife and owe a residence located in the Allen area of Floyd County, Kentucky. Further, the Plaintiffs state that they own a business located in the Allen area of Floyd County, Kentucky, that was harmed in the same manner.

6. The Plaintiffs Tony and Edmona Calhoun, state that they are husband and wife and own property in the Allen area of Floyd County, Kentucky.

7. The Plaintiffs French Campbell and Willena Campbell, state that they are husband and wife and that they own a residence located in the Banner area of Floyd County, Kentucky.

8. The Plaintiff Wanda L. Caudill states that she owns a residence in the Allen area of Floyd County, Kentucky.

9. The Plaintiffs Gene Davis and Norma Davis, state that they are husband and wife and that they own a residence located in the Banner area of Floyd County, Kentucky. The property and residence owned by Gene and Norma Davis was not included in previous litigation styled Crisp, et al vs. Grizzly Processing, LLC, et al, Floyd Circuit Court, Civil Action NO. 07-CI-

1384.

10. The Plaintiff Damon D. Gayheart states that he owns a residence located in the Allen area of Floyd County, Kentucky.

11. The Plaintiffs Eric Hall and Cara Hall, proceeding pro se state that they are husband and wife and that they own a residence located in the Allen area of Floyd County, Kentucky.

12. The Plaintiff Mary Anne Hall states that she owns property in the Allen area of Floyd County, Kentucky.

13. The Plaintiffs Fred Hall and Valerie Hall state that they are husband and wife and that they own a residence on Maple Street in the Allen area of Floyd County, Kentucky.

14. The Plaintiffs Clyde Hancock and Edith Hancock state that they are husband wife and that they own a residence in the Allen area of Floyd County, Kentucky.

15. The Plaintiff Tommy Harmon states that he owns a residence in the Allen are of Floyd County, Kentucky.

16. The Plaintiff Diana Johnson states that she owns a residence in the Allen area of Floyd County, Kentucky.

17. The Plaintiffs Thelma Jones and Joseph Jones state that they are husband and wife and that they own a residence located in the Allen area of Floyd County, Kentucky.

18. The Plaintiffs Jammie Kinzer and Sherri Kinzer state that they are husband and wife and that they own a residence located in the Allen area of Floyd County, Kentucky.

19. The Plaintiffs Jerome Kinzer and Ruby Kinzer state that they are husband and wife and they own eight properties located in the Allen area of Floyd County, Kentucky.

20. The Plaintiffs Garnett Lafferty and Herbert Lafferty state that they husband and wife and that they own a residence located 76 Ball Park Street, Allen, Kentucky.

21. The Plaintiffs Larry Lafferty and Tammy Lafferty state that they are husband and wife and seek damages for the diminution in value of two mobiles homes they own on 50 Hill Street and 67 Hall Street. Larry and Tammy Lafferty are making no further claim for damages to their residence located on 209 May Village Road, which was resolved in the case of Crisp, et al vs. Grizzly Processing, LLC, et al, Floyd Circuit Court, Civil Action NO. 07-CI-1384.

22. The Plaintiff Janie Lemaster states that she owns two properties in the Allen area of Floyd County, Kentucky.

23. The Plaintiffs Jonathan Morris and Julie Morris state that they are husband and wife and that they own a residence located in the Banner area of Floyd County, Kentucky.

24. The Plaintiffs Mark and Sharon Neely state at they are husband and wife and that they own a residence located in the Allen area of Floyd County, Kentucky.

25. The Plaintiff Angie Prater states that she owns a residence located in the Allen area of Floyd County, Kentucky.

26. The Plaintiff Curtis Prater states that he owns a residence located in the Allen area of Floyd County, Kentucky.

27. The Plaintiff Donald Prater states that he owns a residence located in the Allen area of Floyd County, Kentucky.

28. The Plaintiffs Clara Ratliff and Troy Joe Ratliff state that they are husband and wife and that they own a residence in the Allen area of Floyd County, Kentucky.

29. The Plaintiff Sonja Ratliff states that she owns a rental home on 175 Central Ave., and an adjacent mobile home in the Allen area of Floyd County, Kentucky. These properties were not included in the previous litigation styled Crisp, et al vs. Grizzly Processing, LLC, et al, Floyd Circuit Court, Civil Action NO. 07-CI-1384.

30. The Plaintiffs Thomas Reitz and Donna Reitz state that they are husband and wife and that they own a residence located in the Allen area of Floyd County, Kentucky.

31. The Plaintiffs Lowell Sammons and Mary Sammons, state that they are husband and wife and that they own a residence located in the Banner area of Floyd County, Kentucky.

32. The Plaintiffs Lowell Sammons, Jr., and Evelyn Sammons, state that they are husband and wife and that they own a residence located in the Banner area of Floyd County, Kentucky.

33. The Plaintiffs Mark Tackett and Sharon Tackett, state that they are husband and wife and own four properties in the Allen area of Floyd County, Kentucky.

34. The Plaintiff Marlene Tackett states that she owns a residence in the Allen area of Floyd County, Kentucky.

35. The Plaintiffs Marvin Tackett and Barbara Tackett, state they are husband and wife and they own three properties in the Allen area of Floyd County, including a business Tackett Furniture Store.

36. The Plaintiff Wilkie Tackett and Roselane Tackett state they own a business (Tackett Heavy Duty Truck Service) located in the Allen area of Floyd County, Kentucky.

37. The Plaintiffs Angela Watts and Randall Watts state that they are husband and wife and that they own a residence located in the Allen area of Floyd County, Kentucky.

38. The Plaintiffs Leo Watts and Pearl Watts state that they are husband and wife and that they own a residence located in the Allen area of Floyd County, Kentucky.

39. The Plaintiff John D. Webb states that he owns a residence located in the Allen area of Floyd County, Kentucky.

40. The Plaintiff Cindy Wells states that she owns a residence located in the Allen area

of Floyd County, Kentucky.

41. The Plaintiff Carolyn Worrix states that she owns property in the Allen area of Floyd County, Kentucky.

42. The Defendants are corporations who are involved in the coal mining business and both of whom do business in Floyd County, Kentucky.

43. The Plaintiffs believe the Defendants are currently operating a coal processing plant near their residence for the past five years (2005-2010), and increased in intensity in 2007.

44. The Plaintiffs state the coal mining activities have caused their residence to be contaminated with coal dust and other pollutants.

45. The Plaintiffs state that the Defendants' coal mining vehicles caused a continuous and unreasonable pollutants. The Plaintiffs state that the continuous dust, noise and contamination has substantially interfered with their ability to enjoy and use their residence thus constituting a trespass and nuisance.

46. The Plaintiffs also allege that the Defendants have committed assault and battery by causing coal dust to come in physical contact with many of the Plaintiffs through the inhalation of coal particles.

47. The Plaintiffs further state that the acts of the Defendants has caused a diminution in value of their house and have also caused the Plaintiffs to suffer a loss of use of their house, all in excess of the jurisdictional limits of this Court.

48. The Plaintiffs also state that the Defendants' coal mining activities have not only violated their rights, but the laws of the Commonwealth of Kentucky. The Plaintiffs state that on October 1, 2007, the Defendants were found to be in violation of the relevant environmental laws, and the Plaintiffs allege that such violations are indicative of the reckless disregard the

Defendants have shown for the Plaintiffs rights.


49. The Plaintiffs allege that a former employee of the Defendants (Lloyd Layne) personally ask the Defendants on several occasions to control the environmental harm the Defendants were causing the residents of the community, including the Plaintiffs, and that the Defendants explicitly rejected this plea, thus constituting reckless disregard for the rights of the Plaintiffs.

50. The Plaintiffs have complained to the Defendants, their agents, and their regulatory authorities about the environmental damage being done to their residence, and such complaints have been met with deliberate indifference.

WHEREFORE, the Plaintiffs seek relief as follows:

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

RESPECTFULLY SUBMITTED,



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124 WEST COURT STREET

PRESTONSBURG, KENTUCKY 41653

PH: (606) 886-6090

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VICKIE BOYD, EDMONA CALHOUN, TONY
CALHOUN, FRENCH CAMPBELL, WILLENA
CAMPBELL, WANDA L. CAUDILL
GENE DAVIS, NORMA DAVIS, DAMON D.
GAYHEART, FRED HALL, MARY HALL, VALERIE
HALL, CLYDE HANCOCK, EDITH HANCOCK,
TOMMY HARMON, DIANA JOHNSON, JOSEPH
JONES, THELMA JONES, JAMMIE KINZER, SHERRI
KINZER, JEROME KINZER, RUBY KINZER,
GARNETT LAFFERTY, HERBERT LAFFERTY,
LARRY LAFFERTY, TAMMY LAFFERTY,
JANIE LEMASTER, JONATHAN MORRIS, JULIE
MORRIS, MARK NEELY, SHARON NEELY, ANGIE
PRATER, CURTIS PRATER, DONALD PRATER,
CLARA RATLIFF, TROY JOE RATLIFF, SONJA
RATLIFF, DONNA REITZ, THOMAS REITZ, WELLS
SAMMONS, MARY SAMMONS,
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MARK TACKETT, MARLENE TACKETT,
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