

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LEROY G. BRINK and ETHEL M.
BRINK,

Plaintiffs,

v.

THE LENAPE RESOURCES CORPORATION,

Defendant.

CIVIL DIVISION

DOCKET NO. 87-557-CD

ISSUE NO:

PRELIMINARY OBJECTIONS TO
PLAINTIFFS' COMPLAINT
SEEKING DECLARATORY
JUDGMENT

FILED ON BEHALF OF:
Defendant, The Lenape
Resources Corporation

Counsel of Record For
This Party:

JOSEPH L. ROBINSON, ESQ.
PA I.D. 18125
Twelfth Floor
Two Chatham Center
Pittsburgh, PA 15219
(412) 288-2222

DAVID S. AMMERMAN, ESQ.
PA I.D. 06801
Ammerman & Ammerman
23 North Second Street
P.O. Box 341
Clearfield, PA 16830
(814) 765-1701

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

LEROY G. BRINK and ETHEL M.) CIVIL DIVISION
BRINK,)
Plaintiffs,) DOCKET NO. 87-557-CD
v.)
THE LENAPE RESOURCES CORPORATION,)
Defendant.)

PRELIMINARY OBJECTIONS

A. Motion to Strike [Lack of Conformity to Pa.R.Civ.P. 1019(h)]

B. Motion for More Specific Pleading.

Defendant, The Lenape Resources Corporation, files the following Preliminary Objections to Plaintiffs' Complaint:

A. **MOTION TO STRIKE [LACK OF CONFORMITY TO PA.R.CIV.P. 1019(h)].**

1. Paragraph 5 of Plaintiffs' Complaint avers that the oil and gas lease which is the subject of the Complaint has been assigned to defendant, with defendant assuming, *inter alia*, all duties and obligations under said lease. Plaintiffs have failed to attach a copy of the assignment or assignments which impose said duties and obligations upon defendant.

2. Paragraph 9(h) of Plaintiffs' Complaint avers that Plaintiffs have given several notices of default in accordance with ¶5 of the subject lease. Plaintiffs have failed to attach copies of any written notices which were forwarded by registered mail pursuant to the terms of ¶5 of the subject lease.

3. Paragraph 9(j) of Plaintiffs' Complaint avers that the "pooling/consolidation of the plaintiffs' property was done for the wrong drilling unit, and therefore is not valid, as the consolidation plan is with Ricketts while the drilling plan is with Lucas." Plaintiffs have failed to attach copies of the documents evidencing the referenced "consolidation plan" and/or "drilling plan".

B. MOTION FOR MORE SPECIFIC PLEADING.

4. The averments of ¶9(j) of Plaintiffs' Complaint are as set forth in ¶3 hereinabove. Plaintiffs' Complaint is not sufficiently specific because it fails to specify which unit is the "wrong" unit and which is the "right" unit; it fails to define, clarify or distinguish the phrases "consolidation plan" and "drilling plan". Defendant is accordingly unable to ascertain the theory of Plaintiffs' case. Defendant is unable to ascertain whether Plaintiffs desire that the subject lease be held to be terminated as to all acreage or only as to the acreage included within one or the other of the "right" or the "wrong" units.

This motion is made pursuant to Rule 1017(b)(3) of the Pennsylvania Rules of Civil Procedure, and on the ground that Defendant is unable to ascertain from the pleading, in its present state, the nature of the claim asserted, with sufficient precision to prepare a responsive pleading or prepare for trial.

WHEREFORE, Defendant respectfully requests this Honorable Court to strike paragraphs 5, 9(h) and 9(j) of Plaintiffs' Complaint, and to direct Plaintiffs to file a more specific complaint.

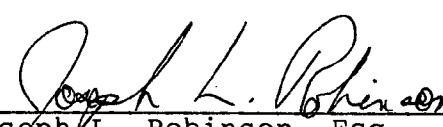
Respectfully submitted:

By: 
Joseph L. Robinson, Esq.
Twelfth Floor
Two Chatham Center
Pittsburgh, PA 15219
(412) 288-2222

David S. Ammerman, Esq.
Ammerman & Ammerman
23 North Second Street
P.O. Box 341
Clearfield, PA 16830
(814) 765-1701

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Preliminary Objections was served upon Dwight L. Koerber, Jr., Esq., Kriner, Koerber & Kirk, 110 North Second Street, P.O. Box 1320, Clearfield, PA 16830 by first class mail, postage prepaid, on this 28th day of May, 1987.



Joseph L. Robinson, Esq.
Twelfth Floor
Two Chatham Center
Pittsburgh, PA 15219
(412) 288-2222
Counsel for Defendant

Dated May 28, 1987.

California Superior Court

FILED
MAY 29 1937
RAY WITHERROW
Prothonotary