

DOCKET NO. 173

NUMBER TERM YEAR

42 February 1961

Robert N. Albert

Alta Albert

VERSUS

Roy R. Fairman, Earl F. Fairman,
Franklin Fairman, Harry H. Fairman,
Milo M. Fairman, Ernest R. Fairman
and William Griffith, t/d/b/a
Fairman Drilling Company

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT N. ALBERT and ALTA
ALBERT, his wife

VS

No. 42 Feb Term, 1961

ROY R. FAIRMAN, EARL F. FAIRMAN,
FRANKLIN FAIRMAN, HARRY H.
FAIRMAN, MILO M. FAIRMAN, ERNEST
R. FAIRMAN and WILLIAM GRIFFITH,
t/d/b/a FAIRMAN DRILLING COMPANY

In Trespass

C O M P L A I N T

(1). The names of the Plaintiffs are Robert N. Albert and Alta Albert, his wife, residents of Sandy Township, R.D. DuBois, Clearfield County, Pennsylvania.

(2). The names of the Defendants are Roy R. Fairman, Earl F. Fairman, Franklin Fairman, Harry H. Fairman, Milo M. Fairman, Ernest R. Fairman and William Griffith, individuals whose residences are in or about Punxsutawney, Pennsylvania, and who trade and do business as Fairman Drilling Company, a partnership.

(3). The Plaintiffs are the owners of certain real estate located in Sandy Township, Clearfield County, Pennsylvania, having acquired the same by deed of William K. Hyatt et ux, dated October 21, 1950, and recorded in Clearfield County Deed Book 409, Page 477. A copy of the deed is attached hereto, incorporated herein, and marked "Exhibit A".

(4). Erected upon said property is a home which is owned by the Plaintiffs. Said home, prior to the occurrences complained of herein, had an approximate market value of \$18,000.00.

(5). The Defendants have engaged in Sandy Township and do engage in the Commonwealth of Pennsylvania in the drilling of oil and gas wells.

(6). On or about May 17, 1960, the Defendants did commence to drill a gas well on certain property, other than property

owned by the Plaintiffs, to-wit, property owned by Catherine Trude. Said well was located on the Trude property and to the immediate northwest of Plaintiffs' property, and approximately 600 feet from Plaintiffs' well.

(7). That the home herein identified is supplied with drinking water by a well which the Plaintiffs drilled, and prior to the occurrences herein complained of, said water was fit and suitable for human consumption.

(8). On or about May 23, 1960, the Plaintiffs noted the water in their home began to have a briny taste, together with an oily or gaseous smell.

(9). On or about May 30, 1960, Plaintiff, Robert Albert, complained to Defendant, Franklin Fairman, of the condition of their well, and he arranged to have the same bailed to rectify the situation.

(10). On or about June 4, 1960, the Defendants, having successfully completed a gas well, subjected the same to a process known as hydrofraction which consists of putting a liquid under extreme pressure so as to fracture the rock strata.

(11). Immediately after the hydrofraction of the well, herein identified, Plaintiffs' water became extremely briny and unfit for human consumption.

(12). Thereafter Plaintiffs complained of this occurrence to Defendants, and Defendants attempted on several occasions to rectify or correct the condition in the well supplying water to Plaintiffs' home.

(13). None of the remedies attempted by Defendants have been successful, and the water in the home is unpotable and unfit for human consumption as it is extremely briny and oily in taste. In addition, it has and does corrode all receptacles or plumbing

devices which are contacted by it, resulting in the destruction of these devices.

(14). The contamination of Plaintiffs' well is caused by the flow or percolation of briny or salt water from the well drilled by Defendants.

(15). The damage to Plaintiffs' well is permanent and continuous.

COUNT ONE - INTENTIONAL

(16). Said contamination was caused by the intentional conduct of the Defendants in drilling this successful gas well in that:

(a). After the Defendants had actual knowledge of contamination to Plaintiffs' water well from their gas well, they did, nevertheless, without any protection, safe guard, or other effort to prevent harm, hydrofract their gas well with large and excessive pressures which they knew or should have known would cause further permanent contamination to Plaintiffs' well.

(b). After the Defendants had actual knowledge of contamination from their gas well to Plaintiffs' water well, and with actual knowledge of the water table level supplying Plaintiffs' well, they, nevertheless, deliberately failed to case said gas well properly so that penetration from said gas well would not invade Plaintiffs' water well, and as a result of this failure, foreign substances entered Plaintiffs' wells.

COUNT TWO - NEGLIGENCE

(17). Said contamination was caused by the Defendants because of their drilling of this successful gas well in a careless and negligent manner in that:

(a). After the Defendants had actual knowledge of contamination from their gas well to Plaintiffs' water well, they did, nevertheless, hydrofract the same with excessive pressure so that further and permanent contamination could have been foreseen and could have been reasonably avoided by the use of a smaller or more reasonable pressure in the hydrofracting technique.

(b). Although the Defendants had actual knowledge of the water table level which was supplying Plaintiffs' well, they failed to case said gas well so that penetration from said gas well would not invade Plaintiffs' water well, and as a result of this failure to properly case said gas well, salt and other foreign agents entered the water table supplying Plaintiffs' well, resulting in the destruction of said water well.

(c). The Defendants conducted drilling operations in such manner - e.g. excessive hydrofraction and failure to properly case the well - when they knew that damage to Plaintiffs' property would result.

COUNTS ONE AND TWO

(18). That by reason of Defendants' actions, salt and other foreign substances have penetrated Plaintiffs' water well and contaminated the water supply for Plaintiffs' home, resulting in said home being without a source of potable water.

(19). By reason of the actions of the Defendants and contamination of the water well hereinbefore complained of, the value of Plaintiffs' property has depreciated from \$18,000.00 to \$7,000.00.

WHEREFORE, Plaintiffs claim of the Defendants for damages, the sum of \$11,000.00, together with costs and interest.

SMITH, SMITH & WORK

BY


Attys. for Plaintiffs

Robert N. Albert
(Robert N. Albert)
Alta Albert
(Alta Albert)

Mrs. Melba B. Singer

NOTARY PUBLIC
My Commission Expires
JANUARY 7, 1963

This Indenture,

Made the Twenty-First (21st) day of October
in the year nineteen hundred and fifty (1950).

Between WILLIAM KENNETH HYATT and FLORENCE HYATT, husband and wife,
of the City of DuBois, Clearfield County, Pennsylvania, Grantors,
parties of the first part;

N
D

ROBERT N. ALBERT and ALTA ALBERT, husband and wife, of the City of
DuBois, Clearfield County, Pennsylvania, as tenants by the entire-
ties, Grantees, parties

of the second part, ~~that the said parties of the first part, for and in consider-~~
ation of the sum of One (\$1.00)

Dollars lawful money of the United States of America, well and truly paid by the said parties
of the second part to the said parties of the first part, at and before the sealing and delivery
of these presents, the receipt whereof is hereby acknowledged, have granted, bargained,
sold, aliened, enfeoffed, released, conveyed and confirmed, and by these presents do grant,
bargain, sell, alien, enfeoff, release, convey and confirm unto the said parties of the second
part, their heirs and assigns.

All that certain piece, parcel or tract of land, situate, lying and
being in the Township of Sandy, Clearfield County, Pennsylvania,
bounded and described as follows, to wit:

BEGINNING at an iron pipe, said pipe being the north-
easterly corner of lands of Fred Carlson; thence by
lands of grantor North 26° 30' East One Hundred and
Ninety-Three and Fifteen Hundredths (193.15) Feet to
an iron pin; thence by lands about to be conveyed to
Paul Albert South 66° 30' East Two Hundred and Four-
teen and Eight Tenths (214.8) Feet to a point in the
Center of the Clear Run Road; thence by center of
said road South 28° 22' West One Hundred Seventy-Six
and Seventy-Five Hundredths (176.75) Feet to a point;
thence by same South 35° 23' West Seventy-Eight and
Five Tenths (78.5) Feet to a point; thence by lands
of Fred Carlson North 49° 33' West Two Hundred (200.0)
Feet to the place of beginning, containing 1.05 acres,
more or less.

BEING a portion of the same premises which were conveyed to William
Kenneth Hyatt by Emery H. Williams by deed dated April 20, 1922,
and recorded at Clearfield, Pennsylvania, in Deed Book No. 257,
page 33.

"
Exhibit A
"

Together with all and singular the tenements, hereditaments and appurtenances to the same belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; And also all the estate, right, title, interest, property, claim and demand whatsoever, both in law and equity, of the said parties of the first part, of, in, to or out of the said premises, and every part and parcel thereof,

To have and to hold the said premises, with all and singular the appurtenances, unto the said parties of the second part, their heirs and assigns, to and for the only proper use and behoof of said parties of the second part, their heirs and assigns forever.

And the said parties of the first part, their

heirs, executors, and administrators, do by these presents, covenant, grant and agree to and with the said parties of the second part, their heirs and assigns, that they the said parties of the first part, their

heirs, all and singular the hereditaments and premises herein above described and granted, or mentioned and intended so to be, with the appurtenances unto the said parties of the second part, their heirs and assigns, against the said parties of the first part and their heirs, and against all and every other person or persons, whomsoever, lawfully claiming or to claim the same or any part thereof,

shall and will, by these presents, Warrant and GENERALLY forever defend.

In witness whereof, the said parties of the first part have hereunto set their hands and seal at the day and year first written above.

Signed, Sealed and Delivered in the Presence of

Wm. Kenneth Hyatt

William Kenneth Hyatt
Florence Hyatt



Certificate of Residence

I, hereby certify that the precise residence of the grantee is herein is as follows:
DuBois, Pa.

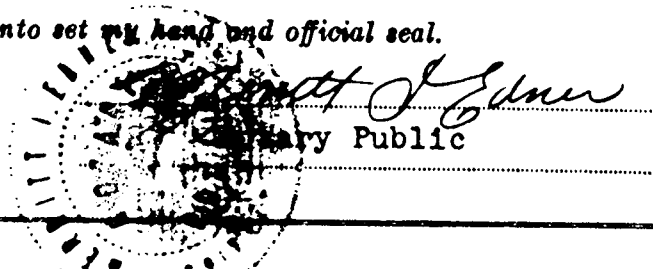
William Kenneth Hyatt
Attorney or Agent for Grantee

Commonwealth of Pennsylvania
County of Clearfield } ss:

On this, the 21 day of Oct 1950, before me a Notary Public
the undersigned officer, personally appeared WILLIAM KENNETH HYATT and FLORENCE HYATT,
are
known to me (or satisfactorily proven) to be the person whose names/ subscribed to the within
instrument, and acknowledged that they executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My Commission Expires Jan. 7, 1951.



County of

SS:

On this, the day of 19 , before me

the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name subscribed to the within instrument, and acknowledged that executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

My Commission Expires

County of

SS:

On this, the day of 19 . before me

the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person whose name subscribed to the within instrument, and acknowledged that executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

My Commission Expires

AND

WILLIAM KENNETH HYATT

and

FLORENCE HYATT

104

ROBERT N. ALBERT and
ALTA ALBERT

Dated..

For

Consideration:

Recorded.

Entered for Record in the Recorder's

Office of

3

County, the

Recall

Record

GLEASON & CHERRY
DAMUS BUILDING
LAW OFFICES
5120/4
P.O. BOX 1000
PHILADELPHIA, PENNSYLVANIA 19104

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.
No. 42 *first* Term, 1961
In Trespass

ROBERT N. and ALTA ALBERT

VS.

ROY R. FAIRMAN, ET AL,
t/d/b/a FAIRMAN DRILLING
COMPANY

C O M P L A I N T

TO THE WITHIN DEFENDANTS:

You are hereby notified
to file defensive pleadings
to the within Complaint with-
in twenty (20) days from ser-
vice hereof.

SMITH, SMITH & WORK

BY *William J. Smith*
Attys. for Plaintiff

1 copy to H
PAID
FEB 10 1961
WM. T. HAGERTY,
SMITH, SMITH & WORK
ATTORNEYS-AT-LAW
CLEARFIELD, PA.

7:50 By City


Know all men by these presents, That I, Charles G. Ammerman

High Sheriff of Clearfield County, State of Pennsylvania, do hereby deputize Sheriff of

Jefferson County to execute this writ; this deputation being made at the request and risk of the Plaintiff.

Given under my hand and seal this 3rd day of March

A. D. 19 61.


CHARLES G. AMMERMAN

Sheriff.

In The Court Of Common Pleas Of Clearfield County. Pa,

Robert And Alta Albert
vs
Roy Fairman et al

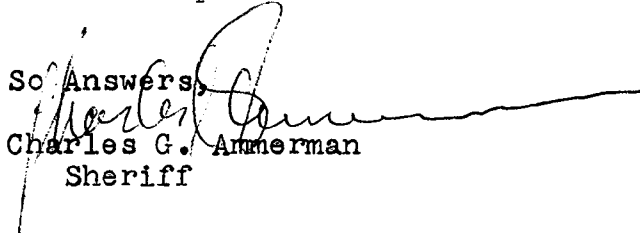
No 42 Feb Term 1961
Complaint In Trespass

(Sheriff,s Return)

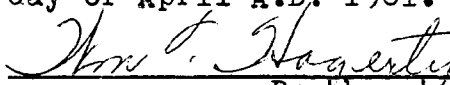
Now, March 30, 1961 deputized the Sheriff of Jefferson County
to serve the within Complaint In Trespass upon Roy Fairman et al.

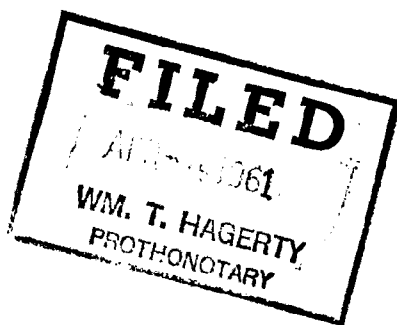
Now, March 10, 1961. at 7:45 O'Clock P.M. served the within Complaint
In Trespass on Roy Fairman et al by deputizing the Sheriff of
Jefferson County. The return of service of Paul A. Evans, Sheriff
of Jefferson County. is hereto attached and made part of this return
of service.

Costs Sheriff Ammerman \$6.00
Sheriff Of Jefferson County \$10.90
(Paid by Attys S.S.W.)

So Answers,

Charles G. Ammerman
Sheriff

Sworn to before me this 4th
day of April A.D. 1961.


Prothonotary.




No. 42 February Term, 1961

Now, March 10, 1961, at 7:45 o'clock P.M., E.S.T., by virtue of the within deputation served the within Complaint in Trespass, on ROY R. FAIRMAN, et al, t/d/b/a Fairman Drilling Company, Defendant, at 511 Highland Avenue, Borough of Punxsutawney, County of Jefferson, State of Pennsylvania, by handing to Roy R. Fairman, as one of the partners, a true and attested copy of the same and by making known to him the contents thereof.

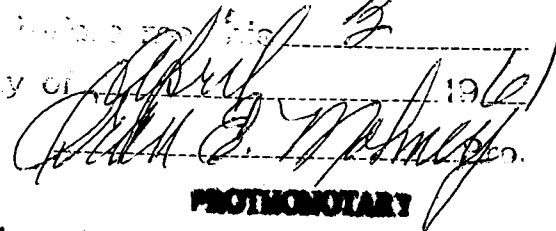
My Costs: \$10.40 Paid
Prothy Costs: \$.50 Paid

Total Costs: \$10.90 Paid

So Answers,

 SHERIFF
JEFFERSON COUNTY, PENNSYLVANIA.

and subscribed

 1961
PROTHONOTARY

My commission expires
at Monday of January 1962

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT N. ALBERT and
ALTA ALBERT, his wife

v.

ROY R. FAIRMAN, EARL F.
FAIRMAN, FRANKLIN FAIRMAN,
HARRY H. FAIRMAN, MILO M.
FAIRMAN, ERNEST R. FAIRMAN
and WILLIAM GRIFFITH, t/d/b/a
FAIRMAN DRILLING COMPANY

No. 42 *File* Term, 1961

In Trespass

PRELIMINARY OBJECTION

MOTION FOR MORE SPECIFIC COMPLAINT

1. The Complaint is not sufficiently specific because:

(a) Paragraph 16(b) of the Complaint avers that "foreign substances entered Plaintiffs' wells" but omitted averment as to what the "foreign substances" were.

(b) Paragraph 17(b) of the Complaint avers that "other foreign agents entered the water table supplying Plaintiffs' well" but omitted averment as to what the "foreign agents" were.

(c) Paragraph 18 of the Complaint avers that "other foreign substances have penetrated Plaintiffs' water well" but omitted averment as to what the "foreign substances" were.

2. The Defendants move the Court to order the Plaintiffs to file a more specific Complaint averring particularly the details omitted as set forth in paragraph 1 hereof.

Robert V. Mame
Attorney for Defendants

Now April 7, 1961 service accepted and copy

received

William L. H.
Attorney for V. L. H.

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

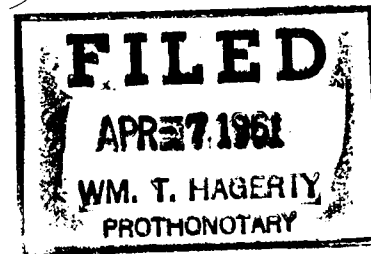
No. 412 Sub Term, 1961

ROBERT N. ALBERT and ALTA
ALBERT, his wife,

v.

ROY R. FAIRMAN, EARL F. FAIR-
MAN, FRANKLIN FAIRMAN,
HARRY H. FAIRMAN, MILO M.
FAIRMAN, ERNEST R. FAIRMAN
and WILLIAM GRIFFITH, t/d/b/a
FAIRMAN DRILLING COMPANY

Preliminary Objection
Motion for more Specific Complaint



ROBERT V. MAINE
ATTORNEY-AT-LAW
DUBOIS, PA.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT N. ALBERT and ALTA
ALBERT, his wife

v.

ROY R. FAIRMAN, EARL F.
FAIRMAN, FRANKLIN FAIRMAN,
HARRY H. FAIRMAN, MILO M.
FAIRMAN, ERNEST R. FAIRMAN
and WILLIAM GRIFFITH, t/d/b/a
FAIRMAN DRILLING COMPANY

No. 42 Feb Term, 1961

In Trespass

PRAECIPE FOR APPEARANCE

TO WILLIAM T. HAGERTY, PROTHONOTARY:

Sir:

Enter my appearance as attorney for the Defendants.

Robert V. Maine
Attorney for Defendants

Dated:

April 7, 1961



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

ROBERT N. ALBERT and ALTA
ALBERT, his wife

VS

No. 42 February Term, 1961

ROY R. FAIRMAN, EARL F. FAIRMAN,
FRANKLIN FAIRMAN, HARRY H. FAIR-
MAN, MILO M. FAIRMAN, ERNEST R.
FAIRMAN and WILLIAM GRIFFITH,
t/d/b/a FAIRMAN DRILLING COMPANY :

In Trespass

FIRST AMENDED COMPLAINT

COME NOW ROBERT N. ALBERT and LOUISE ALBERT, his wife,
Plaintiffs, and in answer to Defendants' Preliminary Objection and
in compliance with Pa. R.C.P. No. 1028, amend their Complaint filed
in the above action as follows:

(16) (b). Plaintiffs believe, and therefor aver, that
the foreign substances which entered Plaintiffs' well because of
deliberate acts of Defendants or negligent acts of Defendants were,
among others, sulphates including iron sulphate, soluble magnesium
salts, sodium chloride, hydrocarbons, and soluble calcium.

(17) (b). Plaintiffs believe, and therefor aver, that
the foreign substances which entered Plaintiffs' well because of
deliberate acts of Defendants or negligent acts of Defendants, were,
among others, sulphates including iron sulphate, soluble magnesium
salts, sodium chloride, hydrocarbons, and soluble calcium salts.

(18). That by reason of Defendants' actions, sulphates
including iron sulphate, soluble magnesium salts, sodium chloride,
hydrocarbons, and soluble calcium salts penetrated Plaintiff's
well and contaminated the water supply for Plaintiffs' home, result-
ing in said home being without a source of potable water.

WHEREFORE, Plaintiffs claim of Defendants for damages,
the sum of \$11,000.00, together with costs and interest.

SMITH, SMITH & WORK

BY


Attys. for Plaintiffs

STATE OF PENNSYLVANIA:

SS

COUNTY OF CLEARFIELD :

ROBERT N. ALBERT ~~and ALTA ALBERT~~ his wife, being duly sworn according to law, depose and say the facts set forth in the foregoing First Amended Complaint are true and correct to the best of their knowledge, information and belief.

Robert N. Albert
(Robert N. Albert)

~~xx(Alta Albert)xx~~

Sworn and subscribed to
before me this 10th day
of April, 1961.

Notary Public E. L. Shabert

NOTARY PUBLIC
My Commission Expires
JANUARY 7, 1963

Robt. N. Albert

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNA.

No. 42 Feb. Term, 1961
In Trespass

ROBERT N. ALBERT ET UX

VS

FAIRMAN DRILLING CO.

FIRST AMENDED COMPLAINT

TO THE WITHIN DEFENDANTS:

You are hereby required to
file defensive pleadings to the
Complaint and within First
Amended Complaint within
twenty days from service hereof.

SMITH, SMITH & WORK

[Signature]
FILED
APR 11 1961
SMITH, SMITH & WORK
ATTORNEYS AT LAW
CLEARFIELD, PA.

*Service completed this 17th day of April, 1961.
Carmel Stewart Jr
for Robert N. Albert*