

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

SEP 12 2011

IN THE UNITED STATE DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS

JAMES W. McCORMACK, CLERK
By: Edhis
DEP CLERK

B. SCOGGIN, a minor, and
H. SCOGGIN, a minor, by and through
their next friend, TINA J. SCOGGIN,

Plaintiffs,

vs.

NO: 4:11 cv 678 Jmm-BD
JURY DEMAND

CUDD PUMPING SERVICES, INC.,
RPC INC., and
CUDD ENERGY SERVICES,

Defendants.

This case assigned to District Judge Mary
and to Magistrate Judge Deere

COMPLAINT

COME NOW the minor Plaintiffs, by and through their next friend, and for
cause of action against the Defendant, would show onto the court as follows:

INTRODUCTION

This lawsuit is filed on behalf of the minor Plaintiffs, against the Defendants
for personal injury to the Plaintiffs as a result of the exposure to noxious and
poisonous carcinogenic matter and compounds as a direct and proximate result of
the fracking operations conducted by the Defendant.

This action seeks, among other relief, injunctive relief in the form of

medical monitoring of the named Plaintiffs for the development of serious health complications as a result of exposure to high levels of Benzene, Xylene and Methylene Chloride, as well as other dangerous and poisonous materials.

JURISDICTION AND VENUE

1. Plaintiff, B. Scoggin, is a minor child who brings this action through her next friend and grandmother, Tina Scoggin. At all times pertinent hereto, Plaintiff was a resident of White County, Arkansas.

2. Plaintiff, H. Scoggin, is a minor child who brings this action through her next friend and grandmother, Tina Scoggin. At all times pertinent hereto, Plaintiff was a resident of White County, Arkansas.

3. Defendant CUDD Pumping Services, Inc., is a Delaware Corporation, licensed to transact business in the State of Arkansas. Service of process may be had on the Defendant by serving a copy of the Complaint and Summons on its registered agent, Corporation Service Company, 300 South Spring Street, Little Rock, Arkansas 72201.

4. Defendant RPC Inc. is believed to be a Delaware Corporation, with headquarters at 2170 Piedmont Road, Atlanta, Georgia. Service of process may be had on the Defendant by serving a copy of the Complaint and Summons on any authorized agent at the address above.

5. Defendant CUDD Energy Services is believed to be a Delaware Corporation, with headquarters at 15015 Vickery Drive, Houston, Texas 77032. Service of process may be had on the Defendant by serving a copy of the Complaint and Summons on any authorized agent at the address above.

6. Plaintiffs' causes of action arise in the State of Arkansas as a direct result of the tortious conduct of the Defendants.

7. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because the Plaintiffs, and the Defendants, are citizens of different states and the amount in controversy exceeds \$75,000.00 excluding interest and costs.

8. The actions complained of herein occurred in the Eastern District of Arkansas and venue is proper in this Court.

9. Plaintiffs specifically allege that valid service of process has been issued and will be properly served upon the Defendants herein.

10. Plaintiffs specifically allege that the Defendants herein cannot identify any individual or legal entity who is not a party to this action, who caused or contributed to the injuries and damages for which the Plaintiffs seek recovery herein.

11. The Defendants are being sued individually, and under the Doctrine of Respondeat Superior, for the actions and/or inactions of their agents, apparent

agents, servants and/or employees.

FACTS

12. The minor Plaintiffs, B. and H. Scoggin, reside in the home of their paternal grandparents, Kevin and Tina Scoggin, located at 708 Scoggin Road, Bradford, White County, Arkansas. B. Scoggin is presently 4 years old. H. Scoggin is presently 2 years old.

13. In August of 2011, the Defendants hydraulically fractured three (3) natural gas wells which were located approximately two hundred and fifty (250) feet from the Scoggin home.

14. The hydraulic fracturing process was used by the Defendants to create fissures or fractures in a strata of shale rock located beneath the well head. The process of fracking involves shooting a mixture of millions of gallons of water and chemicals, including known poisons and carcinogens, into a pre-drilled well bore at extremely high pressures reaching up to fifteen thousand (15,000) pounds per square inch. The combination of extreme pressure along with the highly volatile chemical cocktail results in fracturing of the shale formation and the subsequent release of the trapped natural gas.

15. Due to the nature of the fracking process, chemicals including known poisons and carcinogens are released into the air in and around the fracking site.

16. During the fracking process carried out by the Defendants in the vicinity of the Scoggins home, large amounts of Benzene, Xylene and Methylene Chloride were released and infiltrated and contaminated Plaintiffs' residence.

17. The aforementioned contamination began when the fracking operation was commenced on August 17, 2011. (Attached as Exhibit "1" is a photograph of Defendants' operation being carried out in the vicinity of the Plaintiffs home).

18. During the fracking process, dense clouds of a toxic mixture of atomized chemicals wafted from the fracking site onto the land and premises where the minor plaintiffs resided.

19. Air quality measurements taken in the Scoggins home during the fracking operations revealed toxic levels of Benzene, Xylene and Methylene Chloride within the home itself.

20. Upon information and belief, the Defendants knew, or in the reasonable exercise of care, should have known that their fracturing process was releasing toxic and harmful chemicals into the air and environment in and around the Plaintiffs' residence.

21. The Defendants took no actions to attempt to mitigate or lessen the degree to which they were contaminating the air in and around the Plaintiffs residence.

22. The activities of the Defendants were performed knowingly, wantonly and with reckless disregard for the rights and safety of the Plaintiffs and other persons similarly situated.

23. As a result of the Defendants activities, the Plaintiffs' residence was polluted and contaminated with harmful and/or hazardous and/or caustic and/or carcinogenic and/or poisonous and/or flammable chemicals and compounds

CAUSES OF ACTION

STRICT LIABILITY

24. . The Plaintiffs repeat and reallege the allegations of paragraphs "1" through "23" of this Complaint, as if set forth in this paragraph at length.

25. The harmful and/or hazardous and/or caustic and/or carcinogenic and/or poisonous and/or flammable chemicals and compounds resulting from the Defendants' fracking operation are of a toxic and hazardous nature capable of causing severe personal injuries and damages to persons and property, and are therefore ultra hazardous and abnormally dangerous.

26. The harmful and/or hazardous and/or caustic and/or carcinogenic and/or poisonous and/or flammable chemicals and compounds resulting from the Defendants' fracking operations, are of a toxic and hazardous nature capable of causing severe personal injuries and damages to persons and property, regardless of the degree of caution exercised by the Defendants.

27. The Defendants activities created an unacceptable risk of harm to the Plaintiffs.

28. The Defendants, by engaging in abnormally dangerous and ultra hazardous activities, are strictly liable without regard to fault for all the damages and injuries to the Plaintiffs proximately caused by their fracking operations.

NUISANCE

29. The Defendants' fracking operations unreasonably interfered, and continues to interfere, with the safe use and enjoyment of adjoining and nearby lands and thus disturbs the peaceful, quiet and undisturbed use and enjoyment of such property.

TRESPASS

30. The Defendants fracking operations trespassed on the land and into the home of the Plaintiffs, through the migration and accumulation of harmful and/or hazardous and/or caustic and/or carcinogenic and/or poisonous and/or flammable chemicals and compounds in and around the residence.

31. The Defendants trespasses have resulted in physical damages and injury to the to the Plaintiffs.

NEGLIGENCE

32. The Defendants owed a duty of care to the Plaintiffs to responsibly engage in fracking operations in and around the Plaintiffs' residence.

33. The Defendants had a duty to take all measures reasonably necessary to inform and protect the Plaintiffs from the dangers which accompanied the migration of harmful and/or hazardous and/or caustic and/or carcinogenic and/or poisonous and/or flammable chemicals and compounds due to the operations of the Defendants.

34. The Defendants, including their agents, apparent agents, servants and/or employees, knew or in the exercise of reasonable care should have known, that their operations were resulting in a migration of harmful and/or hazardous and/or caustic and/or carcinogenic and/or poisonous and/or flammable chemicals and compounds.

35. The Defendants, including their agents, apparent agents, servants and/or employees, knew or in the exercise of reasonable care should have known, that the migration of harmful and/or hazardous and/or caustic and/or carcinogenic and/or poisonous and/or flammable chemicals and compounds exposed the Plaintiffs to severe and life threatening harm.

36. The Defendants, including their agents, apparent agents, servants and/or employees, should have taken reasonable precautions and measures to prevent or mitigate a migration of harmful and/or hazardous and/or caustic and/or carcinogenic and/or poisonous and/or flammable chemicals and compounds , including adequate planning as well as notification systems and emergency

preparedness plans.

37. The Defendants, including their agents, apparent agents, servants and/or employees, knew or in the exercise of reasonable care should have known, that once a migration of toxic substances occurred, they should have warned the Plaintiffs.

38. The Defendants, including their agents, apparent agents, servants and/or employees, knew or in the exercise of reasonable care should have known, that the harm caused to the Plaintiffs was a foreseeable and inevitable consequence of the migration of harmful and/or hazardous and/or caustic and/or carcinogenic and/or poisonous and/or flammable chemicals and compounds due to the Defendants operations.

39. The Defendants including their agents, apparent agents, servants and/or employees, acted unreasonably and negligently in causing the migration of harmful and/or hazardous and/or caustic and/or carcinogenic and/or poisonous and/or flammable chemicals and compounds, and failed to take reasonable measures and precautions necessary to avoid the injuries that were sustained by the Plaintiffs.

40. The Defendants acts and/or omissions mentioned herein were the direct and proximate cause of the injuries sustained by the Plaintiffs.

41. Some or all of the acts and/or omissions of the Defendants were

grossly, recklessly and wantonly negligent, and were done with utter disregard for the consequences to the Plaintiffs, and therefore the Plaintiffs are entitled to an award of punitive damages.

42. The Plaintiffs in no way caused or contributed to the damages they have sustained.

INJURIES AND DAMAGES

43. The Plaintiffs repeat and reallege the allegations of paragraphs "1" through "42" of this Complaint, as if set forth in this paragraph at length.

44. As a direct and proximate result of the unlawful activities of the Defendants, these minor Plaintiffs have been exposed to toxic levels of carcinogenic substances including Benzene.

45. Benzene is highly toxic to human beings and is a known carcinogen. Human exposure to Benzene is both time and concentration dependent. The longer the period of exposure and the higher the concentration of Benzene, the greater the injury caused.

46. The cancer caused by benzene exposure is predominantly Leukemia and in particular Acute Myeloid Leukemia. It is normally a very rare cancer, but occurs frequently in persons exposed to benzene.

47. Xylene is a suspected carcinogenic substance.

48. Methylene chloride is a probable carcinogen.

49. Minor children such as the Plaintiffs' herein are acutely susceptible to injury from Benzene exposure because of the immature nature of their cellular development.

50. Development of Acute Myeloid Leukemia from Benzene takes up to 10 years to fully manifest itself in persons such as the plaintiffs herein.

51. Because of their exposure to the toxic levels of carcinogens resulting from the Defendants activities, these children will require bi-annual monitoring for signs and symptoms of Acute Myeloid Leukemia.

52. The minor plaintiffs have suffered severe and life threatening exposure to carcinogenic substances, as well as other toxic pollutants emitted by the fracking activities of the Defendants.

53. The minor plaintiffs have been severely and permanently injured by the Defendants activities and have suffered and will continue to suffer physical and psychological harm and injury, great pain and suffering, loss of enjoyment of life.

RELIEF SOUGHT

WHEREFORE, PREMISES CONSIDERED, the Plaintiffs sue the Defendants herein, jointly and severally as follows:

A. Compensatory damages for the injuries enumerated above in the amount of \$20,000,000.00 (**Twenty Million Dollars**).

B. Punitive Damages in the amount of \$50,000,000.00 (**Fifty Million Dollars**).

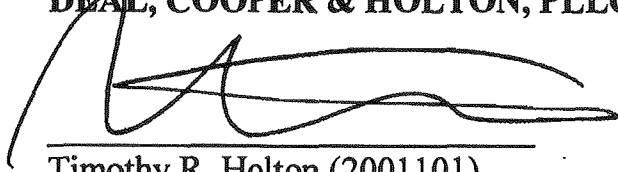
Plaintiffs further pray for:

C. Establishment of a monitoring fund to pay for monitoring of the plaintiffs for harm and effects from contamination resulting from air, soil, groundwater, and atmospheric contamination of their residence.

- e. An award of the costs of litigating the case;
- f. An award of attorney fees;
- g. An award of pre-judgment interest;
- h. All other relief to which the Plaintiffs may be entitled.

A JURY IS DEMANDED TO TRY THESE ISSUES.

DEAL, COOPER & HOLTON, PLLC.



Timothy R. Holton (2001101)

Berry Cooper

John R. Holton (2009056)

296 Washington Ave.

Memphis, TN 38103

(901)523-2222

and

MCGARTLAND AND BORCHARDT

A handwritten signature in black ink, appearing to read "Michael P. McGartland". The signature is written in a cursive style with a large, stylized initial "M".

Michael P. McGartland
1300 South University Drive
Fort Worth, Texas
817-332-9300



EXHIBIT
1
tabbler