

# Underground Storage Tank Litigation: Property Owners File Polk County, Arkansas, Circuit Court Action Against Mena Retail Fuel Facility



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A group of Polk County, Arkansas, property owners filed on October 17th a Complaint in the Circuit Court of Polk County, Arkansas, against Mena Short Stop, LLC (“Mena Short Stop”) alleging injury to personal and real property caused by one or more petroleum product releases from the retail motor fuel Facility’s (“Facility”) underground storage tank (“UST”).

See 57CV-22-130.

The Plaintiffs include:

- Burks’ Family Investments, LLC
- Kathy’s Corner Shoppe, LLC
- Pony Express Printing, LLC
- Mike and Kathy Burks

(collectively “Plaintiffs”)

The Arkansas Department of Energy & Environment – Division of environmental Quality (“DEQ”) had previously been contacted by Polk County, Arkansas, Department of Emergency Management on April 20th concerning petroleum odors in a structure south of the Facility. (See previous blog post [here.](#))

A confirmed UST release is stated to have been identified at the Facility. The unleaded gasoline UST is stated to have been removed from service.

DEQ subsequently issued an Emergency Order (“EO”) requiring certain actions by Mena Short Stop. The Mena Short Stop subsequently challenged the EO before the Arkansas Pollution Control and Ecology Commission. (See previous blog post [here.](#)) This request for a hearing before the Arkansas Pollution Control and Ecology Commission was resolved by the voluntary dismissal of Mena Short Stop.

The October 17th Complaint alleges that the UST release has resulted in a plume of toxic substances beneath the Plaintiffs’ property causing various damages, both personal and to real property. The causes of action alleged in the Complaint include:

- Trespass
- Nuisance
- Negligence
- Violations of the Arkansas Solid Waste Management Act

Relief requested includes:

- Interruption of businesses
- Lost profits
- Lost opportunity costs
- Reasonable expense of necessary repair and restoration of the affected property
- Diminution in the value of Plaintiffs' property
- Loss of use and enjoyment and deprivation of the true worth and value of the property
- Physical symptoms associated with exposure to petroleum vapors, discomfort, annoyance, disruption, inconvenience, fear, and fright

A copy of the Complaint can be downloaded [here](#).