

EXHIBIT A

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

JOHN RENNER,
PATTY RENNER, his wife,
and TRAVIS RENNER,
MATTHEW RENNER, and
COBY RENNER, minors,
by their parents and legal
guardians, John and
Patty Renner,

Plaintiffs,

v.

Civil Action No. 12-C-27

EASTERN ASSOCIATED COAL, LLC,
PATRIOT COAL CORPORATION,
RANDY COFFINDAFFER,
JOSEPH B. "BLAIR" MCGILL; and
JOHN DOES(S),

Defendants.

COMPLAINT

1. The Plaintiffs, John Renner and Patty Renner, individually and on behalf of their minor children, Travis Renner, Matthew Renner and Coby Renner, bring this action against the Defendants, Eastern Associated Coal, LLC ("Eastern"), Patriot Coal Corporation ("Patriot"), Randy Coffindaffer ("Coffindaffer"), Joseph B. "Blair" McGill ("McGill"), and John Doe(s), under West Virginia state law for the torts of outrageous conduct and intentional infliction of emotional distress, and for unlawful retaliatory discharge in violation of a substantial West Virginia public policy pursuant to Harless v. First National Bank of Fairmont.

2. The Plaintiffs seek recovery of compensatory and punitive damages from the Defendants.

The Parties

3. The Plaintiffs, John and Patty Renner, are husband and wife and are the parents and legal guardians of Travis Renner, Matthew Renner and Coby Renner, minors.

4. The Plaintiffs are West Virginia residents.

5. Plaintiff John Renner ("the Plaintiff") was formerly employed by Defendant Eastern, until he was terminated by letter dated February 2, 2010.

6. Defendant Eastern is a West Virginia limited liability with its principal office located in Kanawha County and, at all times relevant herein, has been doing business in Monongalia County, West Virginia, including, but not limited to, serving as the designated "operator" of a coal mine known as the "Federal No. 2 Mine" which is located in Monongalia County.

7. Throughout his employment with Defendant Eastern, the Plaintiff worked at the Federal No. 2 Mine.

8. Upon information and belief, Defendant Patriot is a Delaware corporation that operates and/or exercises control over the operations of various subsidiary coal companies and coal mines, including, but not limited to, Defendant Eastern and the Federal No. 2 Mine, and has been doing business, at all times relevant herein, in the State of West Virginia, including Monongalia County, individually and through its subsidiary coal companies and coal mines, including, but not limited to, Defendant Eastern and the Federal No. 2 Mine.

9. Upon information and belief, although Defendant Eastern has been the designated "operator" of the Federal No. 2 Mine, at all relevant times herein, Defendant Patriot, individually and through its various employees and agents, voluntarily assumed and was responsible for performing various duties and responsibilities for Defendant Eastern

and the Federal No. 2 Mine, and exercised control and responsibility over the operations and management of Defendant Eastern and the Federal No. 2 Mine. Such duties, responsibilities and control are believed to have included, but may not have been limited to, the development and implementation of various management, compensation, mining, training and employment policies and practices which, upon information and belief, caused and/or contributed to the illegal mining practices and other acts of misconduct of the Defendants alleged in this Complaint.

10. At all times relevant to this action, Defendant Coffindaffer was a management employee/agent of Defendants Eastern and Patriot at the Federal No. 2 Mine with supervisory authority over the Plaintiff. In fact, for a lengthy period of time during the Plaintiff's employment, including the time of the Plaintiff's unlawful discharge, Defendant Coffindaffer was the Defendants' mine foreman for the Federal No. 2 Mine.

11. At all times relevant herein, Defendant Coffindaffer exercised supervisory authority over the Plaintiff as a management employee/agent of Defendants Eastern and Patriot, and his actions were within the scope of his employment/agency with Defendants Eastern and Patriot so as to make Defendants Eastern and Patriot vicariously liable for his actions/misconduct as alleged in this Complaint.

12. At all times relevant to this action, Defendant McGill was a management employee/agent of Defendants Eastern and Patriot at the Federal No. 2 Mine with supervisory authority over the Plaintiff and various supervisors of the Plaintiff, including, but not limited to, Defendant Coffindaffer, and acted within the scope of his employment/agency with Defendants Eastern and Patriot. In fact, throughout the Plaintiff's employment, Defendant McGill was the Vice President and General Manager for the Federal No. 2 Mine.

13. At all times relevant to this action, it is believed that Defendant Coffindaffer acted with the knowledge, approval and/or at the direction of Defendant McGill in his capacity as Vice President and General Manager for the Federal No. 2 Mine, and Defendant McGill, therefore, is also liable for Defendant Coffindaffer's misconduct as alleged herein (as well for as his own misconduct).

Jurisdiction and Venue

14. Jurisdiction is proper in this matter pursuant to W. Va. Code § 56-3-33(a).

15. Plaintiffs' claims herein are brought solely under West Virginia state law.

16. The Federal Courts lack subject matter jurisdiction over this action, as there is no Federal question and there is incomplete diversity of citizenship. Removal is improper. Every claim arising under the Constitution, treaties or laws of the United States is expressly disclaimed.

17. Venue is proper in this Court pursuant to W. Va. Code § 56-1-1. Defendant Eastern's principal office is located in Kanawha County, West Virginia.

Facts

18. Throughout the Plaintiff's employment at the Federal No. 2 Mine, and, upon information and belief prior thereto, the Defendants engaged in various illegal mining practices, including, but not limited to, manipulating and falsifying mine seal inspections.

19. Throughout his employment at the Federal No. 2 Mine, the Plaintiff was continually ordered and pressured by mine management to manipulate and falsify mine seal inspections.

20. For example, during his training, the Plaintiff was instructed to manipulate gas readings for seals that were known to be bad by flooding the seals with nitrogen approximately fifteen (15) minutes prior to taking a reading.

21. Further, on the first occasion on which the Plaintiff obtained a bad gas reading of a seal, he evacuated the mine; but was then berated and cursed out by a member of mine management, Defendant Coffindaffer, who threatened the Plaintiff that he would lose his job if he shut down the mine again for such a reason.

22. The Plaintiff voiced concerns about this incident to various management and non-management employees, including, but not limited to, the mine foreman at the time. The mine foreman advised the Plaintiff that he had acted appropriately and not to worry. However, soon after this meeting, Defendant Coffindaffer (the management employee who had threatened the Plaintiff with his job) was promoted to a higher management position where he became the Plaintiff's direct supervisor. After this promotion, Defendant Coffindaffer called the Plaintiff into his office, repeated his prior threat, and ordered the Plaintiff to never speak with the mine foreman again or anyone other than him about any bad seal readings.

23. When the Plaintiff obtained another bad reading, he recorded the reading accurately and took his record to Defendant Coffindaffer who again expressed anger, tore the record out of the inspection book, and told the Plaintiff that he had been mistaken in his reading.

24. Thereafter, as the Plaintiff attempted to perform his job, he was further continually pressured by Defendant Coffindaffer (who got promoted again – **this time to mine foreman**) and other members of mine management, to manipulate and falsify seal readings so that the mine would not be shut down.

25. This continued pressure, as well as the prior pressure and conduct of mine management, including, but not limited to, instructions by Defendant McGill that the Plaintiff

was to address any issues with the seals with Defendant Coffindaffer, caused the Plaintiff to suffer severe and extreme mental anguish, worry and emotional distress.

26. On or about January 24, 2010, the Plaintiff wrecked his jeep prior to completing his seal inspections, and was instructed by Defendant Coffindaffer to lie to investigators and state that he had completed his inspections when, in fact, he had not.

27. On or about January 28 and 29, 2010, the Plaintiff provided truthful information about the jeep incident to state and federal mine safety investigators, and also notified the investigators of the illegal conduct that had been occurring at the mine.

28. By letter dated February 2, 2010, the Defendants unlawfully terminated the Plaintiff from his employment, purportedly for violating one or more mandatory health and safety regulations and falsifying records regarding such violations. These purported reasons, however, were pre-textual. In truth, the Defendants fired the Plaintiff in retaliation for his whistle blowing activities (including, but not limited to, his reporting, documenting and cooperating) with State and Federal mine safety officials with regard to historical and ongoing illegal activities at the mine. Such retaliation was and is a violation of a substantial public policy of this State, including, but not limited to, West Virginia Code §22A-1-22, and constitutes an unlawful wrongful discharge, as recognized by the West Virginia Supreme Court of Appeals in Harless v. First National Bank of Fairmont, 162 W. Va. 116, 246 S.E.2d 270 (1978).

29. Upon information and belief, Defendants Coffindaffer and McGill conspired together, and with other agents, servants and employees of Defendants Eastern and Patriot, who shall be the John Doe Defendants in this action, to terminate the Plaintiff's employment in violation of a significant public policy objective of this State.

30. The Defendants' actions toward the Plaintiff throughout the Plaintiff's employment and termination, as alleged herein and as will be further developed in discovery, were atrocious, utterly intolerable in a civilized community, and so extreme and outrageous as to exceed all possible bounds of decency, causing the Plaintiff to suffer substantial and severe emotional distress.

31. The Defendants' actions were designed to profit them by continuing production at the mine, and avoiding taking appropriate action to correct the bad seals which would be extremely costly and require the mine to shut down while such repairs were being made, thereby causing them to lose substantial profits.

32. The Defendants intentionally inflicted emotional distress on the Plaintiff. Alternatively, the Defendants knew or reasonably should have known that their actions would cause the Plaintiff to suffer emotional distress and other harm and damages.

33. As a direct and proximate result of the Defendants' wrongful conduct as alleged herein and as will be further developed in discovery, the Plaintiff has suffered, and will continue to suffer the following injuries and damages:

- a) loss of employment;
- b) lost wages and benefits and loss of earning capacity;
- c) medical expenses;
- d) mental anguish and humiliation; and
- e) loss of ability to enjoy life.

34. As a further direct and proximate result of the Defendants' wrongful conduct, the Plaintiff's wife, Patty Renner, and their minor children, Travis, Matthew and Coby, also suffered various damages, losses and harm, including, but no limited to, emotional distress, loss of support, and loss of consortium damages, and will continue to do so in the future.

35. The actions of the Defendants as alleged herein and as will be further developed in discovery, were taken/done in a wilful, wanton and malicious manner so as to require an award of punitive damages.

First Cause of Action

Harless Retaliatory Discharge

36. The Defendants' actions constituted an unlawful retaliatory discharge motivated, in whole or in part, by the Plaintiff's whistle blower activities, thereby violating a substantial public policy of the State of West Virginia, including, the public policy articulated by the West Virginia Legislature in W. Va. Code §22A-1-22.

37. As a direct and proximate result of his termination, the Plaintiff has suffered lost wages and benefits, future wages and benefits, loss of earning capacity, humiliation, medical expenses, mental anguish and emotional distress in an amount to be determined by the jury to be fair and equitable under the facts and circumstances of this case.

38. The Plaintiff's wife and minor children have also suffered damages, both special and general, as a result of the Defendants' unlawful termination of the Plaintiff.

39. The Defendants acted in bad faith, vexatiously and wantonly and/or for oppressive reasons such that the Plaintiffs are entitled to an award of attorney fees and costs.

40. The misconduct of the Defendants was egregious, wilful, wanton, malicious and/or undertaken with reckless disregard so as to permit the imposition of exemplary or punitive damages in a fair and just amount to be determined by the jury.

Second Cause of Action

Outrageous Conduct and Intentional Infliction of Emotional Distress

41. The Defendants' actions were atrocious, utterly intolerable in a civilized community, and so extreme and outrageous as to exceed all possible bounds of decency, causing the Plaintiff to suffer substantial damages and losses, including but not limited to, loss of earnings, wages and benefits, future wages and benefits, loss of earning capacity, humiliation, medical expenses, mental anguish, and severe emotional distress, anxiety, embarrassment, aggravation, annoyance and inconvenience.

42. The Defendants' actions were designed to intentionally cause the Plaintiff severe emotional distress and other damages as set forth above. Alternatively, the Defendants knew or reasonable should have known that their actions would cause the Plaintiff and his family to suffer substantial damages and losses, including but not limited to, loss of earnings, wages and benefits, future wages and benefits, loss of earning capacity, humiliation, medical expenses, mental anguish and severe emotional distress, anxiety, embarrassment, aggravation, annoyance and inconvenience.

43. As a direct and proximate result of Defendants' actions and/or inactions, the Plaintiffs have, in fact, suffered substantial damages and losses, including but not limited to, loss of earnings, wages and benefits, future wages and benefits, loss of earning capacity, humiliation, medical expenses, mental anguish and severe emotional distress, anxiety, embarrassment, aggravation, annoyance and inconvenience.

44. The misconduct of the Defendants was egregious, wilful, wanton, malicious and/or undertaken with reckless disregard, thereby entitling the Plaintiff and his wife and minor children to an award of punitive damages in a fair and just amount to be determined by the jury.

WHEREFORE, the Plaintiffs, John Renner, Patty Renner, and their minor children, Plaintiffs, Travis Renner, Matthew Renner and Coby Renner, demand judgment against the Defendants, jointly and severally, for the following damages:

- a) A fair and just amount of compensatory damages for all special and general damages which the Plaintiffs have suffered and may be expected to suffer in the future as a result of the Defendants' misconduct/actions, including, but not limited to, lost wages and benefits, loss of earning capacity damages, back pay, front pay, damages for indignity, embarrassment, humiliation, emotional distress, medical expenses, loss of enjoyment of life and such other damages as may be recovered under West Virginia law;
- b) A fair and just amount of punitive damages;
- c) Reinstatement of employment and reinstatement of fringe benefits and seniority rights;
- d) An award of costs of litigation and attorney fees; and
- e) Such other further and general relief as is fair and reasonable under the circumstances.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL ISSUES IN THIS CASE.

Respectfully submitted,
Plaintiff,
By Counsel



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