

IN THE CIRCUIT COURT OF LOGAN COUNTY, WEST VIRGINIA

DELORICE BRAGG, individually and as
Administratrix of the Estate of Don Israel Bragg,
and
FREDA HATFIELD, individually and as
Administratrix of the Estate of Ellery Hatfield,

Respondents.

v.

Civil Action No. 06-C-372-D

ARACOMA COAL COMPANY, INC.,
MASSEY ENERGY COMPANY, INC.,
A.T. MASSEY COAL COMPANY, INC.,
and DON L. BLANKENSHIP,

Defendants.

JURY TRIAL DEMANDED

COMPLAINT

AND NOW come the Plaintiffs, by and through their undersigned counsel and state as follows for their Complaint in this matter:

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ALVIS PORTER
CIRCUIT CLERK
LOGAN COUNTY

PARTIES

1. Plaintiff Delorice Bragg is a citizen of West Virginia, domiciled in Logan County, West Virginia, and is the duly qualified and acting Administratrix of the Estate of Don Israel Bragg, deceased, who died on or about January 19, 2006, at the Aracoma Alma No. 1 Mine ("Alma Mine"), in Logan County, West Virginia. Plaintiff Delorice Bragg brings this Action for the benefit of her deceased husband's wrongful death beneficiaries under the provisions of W. Va. Code §§ 55-7-5, *et seq.*, as well as in her own individual capacity.

2. Plaintiff Freda Hatfield is a citizen of West Virginia, domiciled in Mingo County, West Virginia, and is the duly qualified and acting Administratrix of the Estate of Ellery "Elvis" Hatfield, deceased, who died on or about January 19, 2006, at Alma 1 Mine, in Logan County, West Virginia. Plaintiff Freda Hatfield brings this Action for the benefit of her deceased

husband's wrongful death beneficiaries under the provisions of W. Va. Code §§ 55-7-5, *et seq.*, as well as in her own individual capacity.

3. Defendant Aracoma Coal Company, Inc. ("Aracoma Coal") is a West Virginia corporation, with its principal place of business in Ethel, Logan County, West Virginia. Dwayne B. Francisco was the President and a Director of Aracoma Coal at the time of the fire, and resides in Danville, Boone County, West Virginia. Aracoma Coal operates the Alma Mine and is engaged in the business of coal extraction and production. Aracoma Coal is a subsidiary of Elk Run Coal Company, Inc. ("Elk Run"), which is a West Virginia corporation with its principal place of business in Sylvester, Boone County, West Virginia. Elk Run owns Aracoma Coal, and is a corporation engaged in the business of producing coal from underground mines, and processing coal for shipment and for certain of Massey Energy Company's industrial customers. Elk Run is a subsidiary of Defendant A.T. Massey Coal Company, Inc.

4. Defendant A.T. Massey Coal Company, Inc. ("A.T. Massey") is a Virginia corporation, with its principal place of business in Richmond, Virginia. Don L. Blankenship is the Chairman, Chief Executive Officer, and President of A.T. Massey, and resides in Sprigg, West Virginia. A.T. Massey is a subsidiary of Defendant Massey Energy Company.

5. Defendant Massey Energy Company ("Massey Energy") is a Delaware corporation, with its principal place of business in Richmond, Virginia. Don L. Blankenship is also Chairman, Chief Executive Officer, and President of Massey Energy. Massey Energy is the largest producer of Central Appalachian coal, and the fourth largest producer of coal in the United States. Massey Energy owns 22 subsidiary mining and processing corporations, 16 of which are in West Virginia, five of which are in Kentucky, and one of which is located in Virginia.

6. Defendant Don L. Blankenship is a citizen of West Virginia, residing in Sprigg, Mingo County, West Virginia. Mr. Blankenship has been Chairman, Chief Executive Officer,

and President of A.T. Massey since 1992, and Chairman, Chief Executive Officer, and President of Massey Energy since 2000.

JURISDICTION AND VENUE

7. Jurisdiction is proper in this matter pursuant to W. Va. Code § 56-3-33(a). The claims in this Action are brought solely under West Virginia common and statutory law.

8. This Action could not properly be filed in or removed to Federal Court. There is no Federal question presented in this Action, and there is incomplete diversity between the Parties, as both Plaintiffs are domiciled in West Virginia and two of the four Defendants are incorporated in or reside in West Virginia.

9. Venue is proper in this Court under W. Va. Code § 56-1-1. Aracoma Coal has its principal place of business in Logan County, West Virginia, and the Decedents' deaths occurred in the Alma Mine, also located in Logan County.

10. Upon information and belief, other defendants herein do business in Logan County, West Virginia.

FACTS

11. The Plaintiffs' Decedents, Don Israel Bragg and Ellery "Elvis" Hatfield were employed as roofbolt operators by Defendant Aracoma Coal at the Alma Mine, located near Melville and Stollings in Logan County, West Virginia. Mr. Bragg, after a previous layoff due to an injury, had worked at the Alma Mine since January 5, 2004. Mr. Hatfield had been employed at the Alma Mine since August 31, 2001.

12. Mr. Bragg was 33 years old at the time of his death, and is survived by his wife, Delorice. Mr. Bragg was an experienced miner, having started mining when he was 18 years

old. Mr. Hatfield was 46 years old at the time of his death, and is survived by his wife, Freda. He was also a seasoned miner, with over 12 years of experience.

13. The Alma Mine is a large underground drift mine covering about six square miles, and accessed primarily through a box cut, which is a deep, narrow hole. Coal is moved through the passageways of the mine on conveyor belts, and is transported out of the mine on the longwall mother belt. Combustible coal dust accumulates around the belts, and the belts travel at high speeds, a combination which leads to a high risk of conveyor belt fires, especially if the belt rollers become damaged or broken. It is the duty of the mine operator to maintain such belts in good condition, and to keep to a minimum any combustible material near the belts.

14. On the afternoon of January 19, 2006, Mr. Bragg and Mr. Hatfield entered the mine to begin the evening shift. On that evening, 29 miners were inside the mine, producing coal on one longwall section and one continuous miner section (the #2 Section). Mr. Bragg and Mr. Hatfield were among the 12 miners working on the #2 Section.

15. At approximately 5:05 p.m., Bryan Cabell, the evening shift belt examiner, shut down the longwall mother belt when he noticed a large amount of coal dust around the mother drive storage unit, a broken carriage in the mother drive storage unit which was causing the belt to become misaligned and rub against the belt bearings, and smoke. Cabell then noticed the smoke worsening, and some cinders beneath the bearing, which caused Cabell to request help from foremen Fred Horton and Pat Callaway.

16. Problems with the mother belt had also been noted earlier in the day by dayshift belt examiner Carl White, who reported his concerns to foreman Dusty Dotson. White also reported his concerns to Cabell before White left the mine at the end of his shift.

17. Foreman Pat Callaway and contract miner Jonah Rose arrived at the smoking belt shortly after 5:00, and attempted to help Cabell put out the fire. The smoke had increased, and

was flowing into the #2 Section where Mr. Bragg and Mr. Hatfield were working. The smoke should have flowed through the longwall section, but a required ventilation control safety barrier ("stopping") was missing, reversing the air direction in the longwall belt area and causing the #2 Section to begin to fill with smoke. The men discharged the two available fire extinguishers located near the belt, but they were insufficient to douse the growing flames.

18. Cabell next attempted to douse the growing fire with a fire hose lying near the mother belt. However, the fire hose coupling did not match the fire tap outlet, making it impossible to connect the hose to the water source and direct any water towards the fire.

19. Because the fire hose was unusable, Cabell simply opened the water valve, hoping to direct the water towards the fire. However, no water came out of the fire tap outlet. The main water valve was later found to be in the closed position, cutting off all water to the area of the fire. Callaway attempted to turn the water on from another location but the valve he opened was for a different water line and thus did not bring water to the fire tap outlet.

20. Each conveyer belt drive at the Alma Mine is equipped with a water sprinkler system designed to activate in high temperatures and suppress fire. The sprinkler system never activated at the time of the fire. Additionally, no sprinkler system had been installed for the mother belt storage unit, the origin of the fire.

21. At approximately 5:40 p.m., almost an hour after two mine foremen were notified of the fire, and only after the smoke became too thick to continue fighting the fire, partial evacuation of the mine finally began. Communication between the dispatcher, foremen, and miners was disorganized. The dispatcher, Mike Brown, had only been working at the Alma Mine for approximately three weeks at the time of the fire, and had insufficient training and experience to perform the safety functions required. As Cabell, Calloway, and Rose fought the fire in the mine, Brown, acting in accordance with his training, ignored several carbon monoxide

("CO") monitor alarms that should have alerted him to a serious problem and led him to order the evacuation of the mine.

22. Furthermore, not all of the Alma Mine's CO monitors were functioning at capacity at the time of the fire, the battery being disconnected, and the CO monitoring system had not been installed in all working areas as required by Federal regulations. There was no CO alarm unit in the #2 Section. Undoubtedly an alarm unit in the #2 Section would have alerted the miners in that area to the danger they faced, and expedited evacuation of the mine.

23. The miners encountered several difficulties as they evacuated. Permanent ventilation controls, or "stoppings," had been removed at least five weeks before the fire in order to expand mining operations, and they had not been replaced. These missing stoppings caused smoke to flood the escape routes and overtake the evacuating miners. The mine maps were also inaccurate, because of these missing stoppings, and because of other mining projects that had compromised the safety design of the mine. If the stoppings had been in place as required, the miners would have had a clear escape route, and no lives need have been lost.

24. On October 19, 2005, A.T. Massey and Massey Energy CEO Don Blankenship wrote and forwarded a memorandum to all deep mine superintendents, stating that "If any of you have been asked by your group presidents, your supervisors, engineers or anyone else to do anything other than run coal (i.e. - build overcasts, do construction jobs, or whatever) you need to ignore them and run coal. This memo is necessary only because we seem not to understand that coal pays the bills."

25. This memo from Blankenship was received at the Alma Mine, conveying the message to the supervisors that A.T. Massey, Massey Energy ("the Massey Defendants"), and Don Blankenship personally demanded that the miners produce more coal, and not devote necessary time to safety-related construction projects.

26. As the miners from the #2 Section, including Mr. Bragg and Mr. Hatfield, attempted to evacuate the mine, they were ordered to ride the mantrip towards the primary escape route and directly towards the fire at the mother belt, rather than walking out of the mine through the smoke-free secondary escape route. This decision was based either on orders from company officials, inaccurate mine maps, or the knowledge that stoppings had been removed and that escape routes might not be clear.

27. As they approached the fire on the mother belt, the # 2 Section miners tried to utilize their Self Contained Self Rescuers ("SCSRs"). However, the miners had not been properly trained in the use of these devices, and they had numerous problems in applying their SCSR's and getting them to work in the thick black smoke that was quickly filling the escape route. The miners dropped and lost pieces of the SCSR's in the smoke, and became nauseated and blinded by the dense black smoke.

28. In this confusion, Mr. Bragg and Mr. Hatfield became separated from the other members of their crew and were lost. Although, as was ultimately learned, they had used up their SCSR's, Mr. Bragg and Mr. Hatfield never made it out of the Alma Mine. Fortunately, the other miners managed to find their way through the smoke to a recently installed mandoor that led to a secondary escapeway and, from there, evacuated to safety.

29. Although firefighting and rescue groups not affiliated with the Alma Mine arrived at the mine quickly after they were finally called, at approximately 8:30 p.m., the rescue effort was delayed because of the inaccurate mine maps, and because of the missing stoppings which had compromised the escape routes and fresh air areas. The first rescue team entered the mine at 11:37 p.m. on January 19. However, as the rescue teams prepared to fight the fire, they found that there was no water supply in the mine. Water was finally supplied to the mother drive at approximately 10:45 a.m. on January 20. The rescuers were further frustrated in their search by the inaccurate maps and missing stoppings. These brave crews finally found the bodies of Don

Bragg and Elvis Hatfield near the mother belt on January 21 at approximately 2:40 p.m. and 3:20 p.m., respectively.

COUNT I—W. VA. CODE § 23-4-2
ARACOMA COAL COMPANY, INC.

30. Plaintiffs restate and reallege all allegations of all previous paragraphs of the Complaint as if repeated verbatim herein.

31. Defendant Aracoma Coal at all relevant times operated the Alma Mine in Logan County, West Virginia. Therefore, Aracoma Coal is subject to the jurisdiction of the West Virginia Office of Miners' Health Safety & Training ("WVOMHST"), and to the United States Mine Safety and Health Administration ("MSHA"). In its operation of the Alma Mine, Aracoma Coal is required to comply with all applicable WVOMHST and MSHA rules and regulations, as well as with commonly accepted safe mining practices.

32. Defendant Aracoma Coal's duties to its miners, including Mr. Bragg and Mr. Hatfield, included, but were not limited to:

- A. The duty to properly ventilate the sealed and working areas of the Alma Mine and comply with the approved ventilation plan for the mine;
- B. The duty to provide a properly trained, qualified, and experienced mine foreman fire-boss;
- C. The duty to maintain ventilation systems, airways, travel ways, pumps, and drainage in good working condition;
- D. The duty to maintain operating sections, conveyors, and passageways free of accumulations of fine coal dust and dry coal;

- E. The duty to adequately train all employees in proper safety methods, tailored to the responsibilities and dangers inherent in their work;
- F. The duty to regularly inspect and make safe all working areas in the mine throughout each working day, and to immediately resolve dangerous conditions or remove persons working near a potentially dangerous condition until the area is made safe;
- G. The duty to provide its foremen with the means to maintain safe working conditions in the mine;
- H. The duty to daily inspect, properly maintain, and make safe all conveyor belts which carry coal;
- I. The duty to install and maintain in working condition automatic water sprinklers or chemical fire control sprays at each main and secondary conveyor belt, which are designed to activate in event of fire or temperature increase;
- J. The duty to properly train the miners in the use of their self contained self rescuers;
- K. The duty to provide adequate firefighting equipment adapted for the size and condition of the mine, including the duty to provide active, functional water lines, fire hoses, nozzles, and foam fire extinguishers throughout the mine working areas; and
- L. The duty to create maps which accurately represent the mine layout and ventilation flows, and which are maintained and up-to-date as ventilation patterns change and construction projects are carried out.

33. On and before January 19, 2006, Aracoma Coal created and/or knowingly allowed to exist numerous egregious unsafe working conditions that were likely to cause serious injury and death to its miners. These conditions were violations of the state and federal duties described above, as well as violations of commonly accepted safety standards in the mining industry. As stated more fully in the recitation of facts, these conditions included, but were not limited to:

- A. Improper maintenance of conveyor belts in good working condition;
- B. Improper accumulation of highly combustible coal dust around the mother belt;
- C. Inadequate and/or non-functioning water lines, fire hoses, nozzles, sprinkler systems, and fire extinguishers;
- D. Improper training and/or direction regarding mine safety and evacuation procedures in case of fire;
- E. Inadequate training, hiring, and/or direction of the dispatcher, specifically with regard to the proper response to CO monitor alarms, and generally with regard to knowledge of the mine and correct safety procedures;
- F. Inadequate CO monitors in essential work areas, such as the # 2 Section where Mr. Bragg and Mr. Hatfield were employed;
- G. Improper ventilation and removal of stoppings which caused smoke to flow from the mother belt fire into the # 2 Section;
- H. Inadequate training of the miners in the use of their SCSRs;
- I. Inaccurate and out-of-date mine maps which hindered both escape and rescue efforts.

34. Evidence exists to show that Aracoma Coal had actual knowledge of the existence of and risks related to some or all of these unsafe working conditions. This evidence includes, but is not limited to, the following facts:

- A. Problems with the mother belt had been reported to Aracoma Coal foreman Dusty Dotson earlier on the day of January 19, 2006, and the fire on the mother belt was reported to Aracoma Coal foremen Fred Horton and Pat Callaway immediately after it began;
- B. The unsafe accumulation of coal dust around the mother belt was in plain view of Aracoma Coal supervisors in the area where they performed their daily work;
- C. As recently as December 23, 2005, essentially the same problems with the mother drive caused a fire on the belt. The belt operator present at the time attempted to hook up the fire hose, but found that the couplings did not fit, and the water pressure in the water line was very weak. The belt operator reported the fire to foreman Fred Horton, and was warned not to use the word "fire" over the telephone;
- D. On December 29, 2005, another fire broke out on another conveyor belt, burning the belt and the mine wall with flames over three feet high and wide, and which took over 20 minutes to extinguish. Aracoma Coal foreman Dave Mead was aware of the fire, but the mine was not evacuated;
- E. During MSHA's latest inspection of the Alma Mine, between October and December 2005, Aracoma Coal was cited for 25 violations, three of which related to the accumulation of combustible materials, and seven of which concerned the mine's ventilation plan;

- F. WVOMHST has recommended several Aracoma Coal foremen for penalties due to their specific knowledge of critical ventilation violations and missing stoppings that allowed smoke to flow into the # 2 Section and flood escape routes;
- G. MSHA Inspector Minness Justice has stated under oath that he pointed out the inaccuracies in the mine maps to Aracoma Coal officials in the weeks before the fire, emphasizing that accurate maps were especially important in case of a fire or explosion in the mine;
- H. Other safety problems, such as inadequate safety procedures and training of miners, dispatchers, and foremen, would be known to the responsible mine supervisors and officials in the normal course of their work.

35. The grave dangers inherent in these many unsafe working conditions are obvious and self-evident, and the mining industry as a whole is well aware of the yearly fatalities caused by such unsafe conditions. The mining industry is therefore subject to extensive safety regulations, well known to Aracoma Coal officials, in order to prevent the injuries and fatalities that inevitably occur when these unsafe working conditions are allowed to exist.

36. Notwithstanding Aracoma Coal's actual knowledge of these numerous unsafe working conditions and the grave hazards they created, Aracoma Coal intentionally thereafter exposed Mr. Bragg and Mr. Hatfield to these unsafe conditions.

37. As a direct and proximate result of the wrongful act and omissions of Aracoma Coal, Don Bragg and Elvis Hatfield died in the Alma Mine and endured pain, suffering, and mental anguish prior to their deaths. Their deaths were unnecessary and would have been completely preventable through simple compliance with normal state and federal mine safety

regulations. The Estates of Don Bragg and Elvis Hatfield suffered losses as set forth in West Virginia's Wrongful Death Act, West Virginia Code §§ 55-7-6(c)(1) and (2).

COUNT II—NEGLIGENCE AND WRONGFUL DEATH
A.T. MASSEY COAL COMPANY, INC. AND MASSEY ENERGY COMPANY

38. Plaintiffs restate and reallege all allegations of all previous paragraphs of the Complaint as if repeated verbatim herein.

39. Defendant A.T. Massey is a corporate parent of Aracoma Coal, and Defendant Massey Energy is listed as the controlling entity for Aracoma Coal and the Alma Mine with the United States Department of Labor, Mine Safety and Health Administration.

40. In their superior position of corporate parental power and financial control, the Massey Defendants exercise significant influence over various aspects of the operations and management of Aracoma Coal.

41. The Massey Defendants are a top producing national coal company, with numerous mining subsidiaries in multiple states. In their position as controlling entities with influence over a large percentage of the nation's coal mines, the Massey Defendants have a duty to ensure that persons working in their associated mines are provided with reasonably safe working conditions. Reasonably prudent coal companies institute standardized safety procedures to ensure basic safety at all associated sites. However, the Massey Defendants negligently failed to develop and implement any standardized safety procedures at the associated mines, including the Alma Mine. The Massey Defendants also negligently failed to monitor and correct unsafe conditions at the Alma Mine.

42. The Massey Defendants, as the controllers and/or owners of the Alma Mine, owed the Plaintiffs' Decedents a non-delegable duty to provide them with a safe workplace and to exercise ordinary care for the safety of the miners on the premises.

43. As shown herein, particularly by the facts alleged in Paragraphs 11-29 of this Complaint, and the recitation of unsafe conditions at the Alma Mine in Paragraph 33 of this Complaint, the Massey Defendants negligently and/or recklessly failed to fulfill these duties to provide a safe workplace at the Alma Mine. As described in Paragraph 34 of this Complaint, the Massey Defendants knew or should have known about many of the safety violations which were the proximate cause of the deaths of Mr. Bragg and Mr. Hatfield.

44. Furthermore, on October 19, 2005, the Massey Defendants' President and CEO Defendant Don Blankenship promulgated a memorandum to all subsidiary deep mine superintendents, demanding that the mine operators forego activities (such as safety projects) that did not add to corporate profit. The memo stated: "If any of you have been asked by your group presidents, your supervisors, engineers or anyone else to do anything other than run coal (i.e. - build overcasts, do construction jobs, or whatever) you need to ignore them and run coal. This memo is necessary only because we seem not to understand that coal pays the bills."

45. Clearly, despite their publicly-touted slogan of "S-1" or "safety first," this memorandum displays the Massey Defendants' corporate practice of placing profit above all else, including even a basic regard for state and federal mining safety regulations, and the lives and safety of its subsidiary mines' employees. Alma Mine foreman Donald Hagy has stated under oath that he and other Aracoma officials were aware of the Massey memorandum, and that he believed the message was that the Alma Mine needed to produce more coal and not slow production in order to perform safety and construction projects.

46. This memorandum, as well as the management approach it reveals, was a direct and proximate cause of the unsafe workplace conditions that led to the deaths of Don Bragg and Elvis Hatfield. The Massey Defendants' corporate practices, and this memorandum specifically, were willful, wanton, and reckless towards federal and state safety laws, and towards human life and dignity.

47. As a direct result of the Massey Defendants' wrongful acts and omissions in these matters, the Plaintiffs' Decedents suffered death, pain, impairment, and mental anguish, and the Decedents' Estates suffered losses as set forth in West Virginia's Wrongful Death Act, West Virginia Code §§ 55-7-6(c)(1) and (2).

COUNT III—NEGLIGENCE AND WRONGFUL DEATH
DON L. BLANKENSHIP

48. Plaintiffs restate and reallege all allegations of all previous paragraphs of the Complaint as if repeated verbatim herein.

49. Don Blankenship has been Chairman, Chief Executive Officer and President of A.T. Massey since 1992, and of Massey Energy Company since 2000. Defendant Blankenship was formerly President and Chief Operating Officer of A.T. Massey Coal Company, Inc. from 1990 and President of Massey Coal Services, Inc. from 1989.

50. In his longstanding position of power and control at the Massey corporations, Blankenship effectively instituted his personal drive for increasing company profits at all costs (including the safety of subsidiaries' employees) as Massey corporate policy. Don Blankenship, and the Massey corporations under his leadership, have a long history of negligence, hostility, and/or reckless and wanton indifference to labor safety and working conditions.

51. As a Director of the Massey Defendants, Blankenship had an individual duty to exercise reasonable care in the operation and direction of the Massey Defendants' associated mines, and a duty not to assent to or participate in any torts committed by the Massey Defendants.

52. Defendant Blankenship violated these duties through his negligent and/or reckless disregard of the many safety hazards and violations at the Alma Mine listed in Paragraph 33 of this Complaint, of which he knew or should have known due to the numerous MSHA violations cited in the mine's most recent inspection, among other sources.

53. Defendant Blankenship also violated these duties by personally engendering a corporate attitude of indifference and hostility towards safety measures which stood in the way of profit, as clearly exemplified and put into practice by Blankenship's personal authorship and promulgation of the October 19, 2005 memorandum quoted in Paragraph 44 herein.

Blankenship's management approach, and this memorandum specifically, were willful, wanton, and reckless towards federal and state safety laws, and towards human life and dignity.

54. As a direct result of Blankenship's tortious acts and omissions in these matters, the Plaintiffs' Decedents suffered death, pain, impairment, and mental anguish, and the Decedents' Estates suffered losses as set forth in West Virginia's Wrongful Death Act, West Virginia Code §§ 55-7-6(c)(1) and (2).

COUNT IV—OUTRAGE
DON L. BLANKENSHIP

55. Plaintiffs restate and reallege all allegations of all previous paragraphs of the Complaint as if repeated verbatim herein.

56. As described more fully above, Defendant Blankenship's personal approach in the running of the Massey subsidiary mines, which routinely, intentionally, and explicitly placed corporate profit ahead of the safety and lives of miners under his influence, and which routinely led to violations of state and federal mine safety laws and regulations, was atrocious, intolerable, extreme, and outrageous beyond the bounds of decency. Blankenship's personal authorship and promulgation of the October 19, 2005 memorandum, quoted in Paragraph 44 herein, both exemplified and put into practice this extreme and outrageous disregard for human life.

57. Blankenship's continual outrageous conduct which evidenced his intentional and/or reckless disregard of miner safety was certain or substantially certain to cause emotional distress to the coal miners working in the Massey subsidiary mines, including Plaintiffs' Decedents.

58. Blankenship's actions did in fact cause severe emotional distress and suffering to Don Bragg and Elvis Hatfield prior to their deaths in the Aracoma Mine. Because of Blankenship's personal actions, Mr. Bragg and Mr. Hatfield suffered severe emotional distress as they fought for their lives, attempting to escape their work area and passage ways which had filled with smoke due to the atrocious safety standards in Aracoma Mine, becoming lost in the thick, choking, nauseating, and blinding smoke, and ultimately suffocating and dying.

59. As a direct result of Blankenship's tortious acts and omissions in these matters, the Plaintiffs' Decedents suffered death, pain, impairment, and mental anguish which was so severe that no reasonable person should be expected to endure it, and the Decedents' Estates suffered losses as set forth in West Virginia's Wrongful Death Act, West Virginia Code §§ 55-7-6(c)(1) and (2).

COUNT V—PUNITIVE DAMAGES

60. Plaintiffs restate and reallege all allegations of all previous paragraphs of the Complaint as if repeated verbatim herein.

61. The acts and omissions forming the basis of Counts II, III and IV of this Complaint were of such an extreme, willful, wanton, and reckless nature, and showed such gross indifference to human life as to warrant punitive damages.

62. Punitive damages are justified to punish the Defendants for their wanton acts which resulted in the needless deaths of Mr. Bragg and Mr. Hatfield, and to deter the corporate and individual Defendants from continuing to defy state and federal mining safety regulations in their pursuit of profits, and placing financial considerations ahead of basic minimal regard for human life, safety, and dignity.

WHEREFORE, Plaintiffs demand judgment, jointly and severally against the Defendants as follows:

1. Compensatory and punitive damages allowed under the law for the pre-death pain, suffering, and mental anguish of the Plaintiffs' Decedents;
2. Compensatory and punitive damages allowed under the law for the wrongful deaths of the Plaintiffs' Decedents, as provided under West Virginia's Wrongful Death Act;
3. Costs and attorney fees expended in the prosecution of this Action;
4. Pre-judgment and post-judgment interest on any award as provided under the law; and
5. Any other relief to which the Court deems the Plaintiffs are entitled.


PLAINTIFFS DEMAND A JURY TRIAL.

Delorice Bragg, Individually and as Administratrix
of the Estate of Don Israel Bragg, deceased,

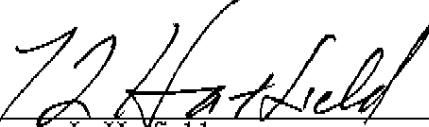
Freda Hatfield, Individually and as Administratrix
of the Estate of Ellery "Elvis" Hatfield, deceased,

Plaintiffs.

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