

**FIFTH JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF LEA**

**TMBR/SHARP DRILLING, INC.,
AMERISTATE OIL & GAS, INC., FUEL
PRODUCTS, INC., THOMAS BEALL,
NEARBURG EXPLORATION COMPANY, L.L.C.,
LOUIS MAZZALLO, INC., F. HOWARD
WALSH, JR., P.V. PATEL, RUDD FAMILY
TRUST, JOHN F. HERBIG, JR., JADE
RESOURCES, INC., CHI ENERGY, INC.,
and THOMAS C. BROWN,**

Plaintiffs,

v.

No. CV-2001-315C

**DAVID H. ARRINGTON OIL & GAS,
INC., JAMES D. HUFF, MADELINE
STOKES, ERMA STOKES HAMILTON,
JOHN DAVID STOKES, TOM STOKES,
and OCEAN ENERGY, INC.**

Defendants.

**ANSWER TO DEFENDANTS DAVID H. ARRINGTON OIL AND GAS, INC.
AND JAMES D. HUFF TO PLAINTIFFS THIRD AMENDED COMPLAINT
FOR DECLARATORY JUDGMENT, TORTIOUS INTERFERENCE,
REPUDIATION, SLANDER OF TITLE, CIVIL CONSPIRACY,
DAMAGES AND INJUNCTIVE RELIEF AND COUNTERCLAIM**

COMES NOW Defendants, David H. Arrington Oil and Gas, Inc. ("Arrington") and James D. Huff ("Huff") by and through their attorneys of record, Losee, Carson, Haas & Carroll, P.A. (Ernest L. Carroll) and Hinkle, Hensley, Shanor & Martin, L.L.P. (Richard E. Olson) for their answer to Plaintiffs Complaint states as follows:

THE PARTIES

1. Admit.

2. Admit.
3. Admit.
4. Admit.
5. Admit.
6. Admit.
7. Admit.
8. Admit.
9. Upon information and belief, admit.
10. Admit.
11. Admit.
12. Admit.
13. Arrington and Huff would state that the lease between Madeline Stokes and Ameristate Oil & Gas, Inc., is recorded in book 827, page 127, rather than page 128, of the deed records of Lea County New Mexico. Arrington and Huff are without first hand knowledge of any amending instrument dated August 10, 2000, and would therefore deny all remaining allegations contained in paragraph 13.
14. Admit, except Arrington and Huff are without first hand knowledge of any amending instrument dated August 14, 2000, and would therefore deny all remaining allegations contained in paragraph 14.
15. Admit.
16. Admit.
17. Admit.

18. In response to paragraph 18, Arrington and Huff would state that this and subsequent paragraphs following the heading The Pooled Unit Dealing With The Original Stokes Leases have nothing to do with a pooled unit. Arrington and Huff deny there is any pooled unit with respect to the leases at issue in Plaintiffs Complaint. With respect to the remaining allegations contained in paragraph 18, upon information and belief, Arrington and Huff admit those allegations.
19. In response to the allegations contained in paragraph 19, Arrington and Huff admit that as part of Plaintiffs application for a permit to drill a well location and acreage dedication of plat was attached thereto, pursuant to Oil Conservation Commission rules. Arrington and Huff deny that there was ever a pooled unit, as such language is commonly known in the industry, dedicated to the proposed "Blue Fin 24" Number 1 well and would further deny that by inclusion of the plat in the application for a drilling permit, that a pooled unit was effectively created under the terms of the December 7, 1997, Madeline Stokes Lease, and the December 7, 1997, Erma Stokes Hamilton Lease. Therefore, with respect to all remaining allegations contained in paragraph 19, not specifically addressed, they are denied.
20. Admit.
21. Arrington and Huff are without first hand knowledge and therefore would deny same.
22. Arrington and Huff are without first hand knowledge and therefore would deny same.

23. Arrington and Huff are without first hand knowledge and therefore would deny same.
24. Arrington and Huff are without first hand knowledge and therefore would deny same.
25. Arrington and Huff admit that part of the language of the two leases at issue is quoted therein and would affirmatively state that the leases in their entirety speak for themselves. Arrington and Huff would also state that the language quoted in italics has no application with respect to the issue of whether or not Plaintiff complied with the lease term thus pooling each lease with other acreage prior to each leases expiration.
26. Deny.
27. Admit.
28. Admit.
29. Admit.
30. Admit.
31. Admit.
32. Upon information and belief, admit.
33. Upon information and belief, admit.
34. Upon information and belief, admit.
35. Upon information and belief, admit.

36. Admit. Arrington and Huff would affirmatively state however that Arrington paid for the leases and therefore had inequitable interest dating back to the date of payment which was in March 2001.
37. Admit. Arrington would affirmatively state however that it had an AMI Agreement with Ocean covering said interest dating back to December 12, 2000.
38. Admit.
39. Admit.
40. Admit.
41. Deny.
42. Admit.
43. Admit.
44. Deny.
45. Admit.
46. Admit.
47. Admit.
48. Arrington and Huff with respect to the allegation that the original Stokes Leases are in full force and effect, deny same. Arrington and Huff admit that each of the original Stokes Leases contained a continuous development clause and would affirmatively state that due to the fact that Plaintiff failed to file the appropriate pooling designation in the deed records of Lea County prior to the expiration of the Madeline Stokes and Erma Stokes Hamilton Leases Plaintiffs own no right to continuously develop any of the acreage covered by those leases.

49. Deny.

50. Deny.

OCEAN'S AGREEMENT WITH ARRINGTON OIL & GAS

51. Admit.

52. Admit.

53. Upon information and belief, Ocean has now proposed a well on Section 25 and further Ocean has filed a compulsory pooling request with OCD regarding the W/2 of Section 25, Lea County, New Mexico. Ocean has no permit to drill the Triple Hackle Dragon well but Arrington has such permit, however, Arrington denies that it has refused to release that permit. In fact, in statements to the OCC, Arrington has put the OCC on notice that they will release the permit to whomever the OCD says has a right to drill the well on Section 25.

COUNT I
DECLARATORY JUDGMENT: ORIGINAL STOKES LEASES
ARE PROPERLY POOLED

54. Arrington and Huff incorporate by reference all of paragraphs 1-53 of its Answer, in answer thereto.

55. Deny.

56. Admit.

57. Admit.

COUNT II
DECLARATORY JUDGMENT: HUFF TOP LEASES NOT EFFECTIVE

58. Arrington and Huff incorporate by reference all of paragraphs 1 - 57 of its Answer and answer thereto.
59. Arrington and Huff state that the top leases in question are effective pursuant to the laws of New Mexico and that the original leases referred to therein have, by their terms, expired and are no longer valid. All allegations not specifically answered are denied by Arrington and Huff.

COUNT III
TORTIOUS INTERFERENCE WITH THE ORIGINAL STOKES LEASES

60. Arrington and Huff incorporate by reference all of paragraphs 1 - 59 of its Answer and answer thereto.
61. Deny.
62. Admit.
63. Deny.
64. Admit.
65. Deny.
66. Deny.
67. Deny.
68. Deny.
69. Deny.

COUNT IV
TMBR/SHARP'S DUTY TO DRILL ON THE ORIGINAL STOKES LEASES
SHALL BE SUSPENDED

70. Arrington and Huff incorporate by reference all of paragraphs 1 - 69 of its Answer and answer thereto.
71. Arrington and Huff admit that there is a paragraph 9 to each of the original leases referred to in Plaintiffs complaint. Arrington and Huff would state that the terms of the entire lease speak for themselves. Arrington and Huff deny that paragraph 9 is applicable to the facts of this case.
72. Deny.
73. Deny.

COUNT V
EQUITABLE CLAIM: REPUDIATION OF THE ORIGINAL STOKES LEASES

74. Arrington and Huff incorporate by reference all of paragraphs 1 - 73 of its Answer and answer thereto.
75. Deny.
76. Arrington and Huff state, Madeline Stokes and Erma Stokes Hamilton are justified in the position that they take that the Original Stokes Leases have expired. It should be noted that such a stand does not "constitute a clear and unequivocal challenge to Plaintiffs' title to the Original Stokes Leases". It is undisputed that Plaintiffs and possibly others own expired oil and gas leases. All other allegations of paragraph 76 are denied.

77. Deny.

COUNT VI
SLANDER OF TITLE

78. Arrington and Huff incorporate by reference all of paragraphs 1 - 77 of its Answer and answer thereto.

79. Deny.

80. Deny.

81. Deny.

82. Deny.

COUNT VII
CIVIL CONSPIRACY

83. Arrington and Huff incorporate by reference all of paragraphs 1 - 82 of its Answer and answer thereto.

84. Deny.

85. Deny.

86. It is admitted that this Court has ruled that the Original Stokes Leases are in full force and effect. Arrington and Huff deny all other allegations contained in paragraph 86.

87. Deny.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiffs have failed to mitigate their damages. Plaintiffs recovery, if any, should therefore be reduced.

SECOND AFFIRMATIVE DEFENSE

If Defendants were at fault or were responsible in any way, which is specifically denied, then the Plaintiffs were also at fault or responsible and their actions amount to comparative fault or causation and should be used to offset in whole or in part any recovery by the Plaintiffs against these Defendants.

THIRD AFFIRMATIVE DEFENSE

Defendants actions were justified under the circumstances.

PRAYER FOR RELIEF

WHEREFORE, Arrington and Huff having fully answered the allegations contained in Plaintiffs complaint, ask that this Court deny the relief requested by Plaintiffs, dismiss their complaint and further that Arrington and Huff be awarded their costs, attorneys fees, and such further and other relief as the Court deems just in the premises.

COUNTER-CLAIM OF DAVID H. ARRINGTON OIL & GAS, INC. FOR

TORTIOUS INTERFERENCE OF CONTRACTUAL RIGHTS

COUNT I

COMES NOW, David H. Arrington Oil & Gas, Inc. ("Arrington"), Counter-Plaintiff, by and through its attorneys of record, Losee, Carson, Haas & Carroll, P.A., (Ernest L. Carroll) and for its Counter-Claim against TMBR/Sharp Drilling, Inc. states as follows:

1. Arrington incorporates by reference the factual information contained in paragraphs 1 through 87 of its answers to Counter-Defendant TMBR/Sharp's Complaint.
2. On August 21, 2001, Counter-Defendant TMBR/Sharp filed its Complaint for Declaratory Judgment, Tortious Interference, Repudiation, Damages, and Injunctive Relief seeking to prevent Arrington from drilling its proposed wells.
3. On August 24, 2001, Counter-Defendant TMBR/Sharp filed an Application of TMBR/Sharp Drilling, Inc. for an order staying Division approval of two applications for permits to drill to David H. Arrington Oil & Gas, Inc., Lea County, New Mexico, Case No. 12731.
4. Counter-Defendant TMBR/Sharp's filing of the above actions constitute a deliberate and malicious tortious interference, with the contractual rights granted Arrington by Madeline Stokes and Erma Stokes Hamilton to develop the oil and gas leases acquired by Arrington from Madeline Stokes and Erma Stokes Hamilton.
5. Counter-Defendant TMBR/Sharp has willfully, intentionally and maliciously attempted to deny the rights of Arrington to drill on its leases from Madeline Stokes and Erma Stokes Hamilton.
6. Arrington has suffered actual damages and loss by virtue of Counter-Defendant TMBR/Sharp's conduct in denying Arrington drilling opportunities in that drilling rigs are now reasonably available and gas prices remain high. If drilling is delayed either rigs may become unavailable or gas prices may drop.

7. Counter-Defendant TMBR/Sharp's acts have caused damage to Arrington and have delayed Arrington in developing its leases thereby causing loss of economic opportunities to Arrington all in an amount to be proven at trial.
8. Counter-Defendant TMBR/Sharp willfully, intentionally and maliciously committed acts calculated to cause damage to Arrington and its lawful business opportunities and ownership of property pursuant to its leases from Madeline Stokes and Erma Stokes Hamilton thus entitling Arrington to an award of punitive damages.

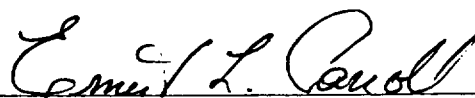
COUNT II

9. Arrington incorporates by reference its allegations contained in paragraphs 1 through 8 of its Counterclaim.
10. Arrington reserves the right to file additional causes of action including an action to Quiet Title with respect to the oil and gas leases taken from Madeline Stokes and Erma Stokes Hamilton based upon information that may become available to it pursuant to discovery in this case.

WHEREFORE, Counter-Plaintiff prays that it be granted a judgment awarding damages in an amount to be determined by the Court as a result of Counter-Defendant's tortious actions, punitive damages and further that Arrington be awarded its costs, attorney's fees, pre and post judgment interest and such further and other relief as the Court deems just in the premises.

LOSEE, CARSON, HAAS & CARROLL, P. A.

By:

A handwritten signature in cursive script, appearing to read "Ernest L. Carroll", written over a horizontal line.

Ernest L. Carroll

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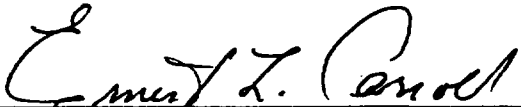
CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the foregoing pleading to be mailed on this 16th day of April, 2002 to the following:

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