

COMMONWEALTH OF KENTUCKY  
35 JUDICIAL DISTRICT  
PIKE CIRCUIT COURT  
DIVISION NO: \_\_\_\_\_

CIVIL ACTION NO: \_\_\_\_\_

R. H.

PLAINTIFF

VS.

NATURAL GAS PRODUCTION COMPANY

Process Agent:  
CT Corporation System,  
KY Home Life Building,  
Louisville, Kentucky 40202.

and

ENGINEERING COMPANY

Process Agent:  
Street Address Here  
Lexington, Kentucky 40507.

and

PROFESSIONAL ENGINEER INDIVIDUALLY

DEFENDANTS

Street Address Here  
Prestonsburg, Kentucky, 41653.

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**COMPLAINT AND JURY DEMAND**  
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Comes the Plaintiff, R. H., and for his claims and causes of action against the  
Defendants herein state as follows;

## JURISDICTION AND VENUE

1. The Court herein has jurisdiction and venue over this matter in that the events alleged herein all occurred in or near (Plaintiffs) Branch, Pike County, Kentucky.
2. The damages claimed herein are in excess of \$ 4,000.00 the jurisdictional limits of this Court.

## IDENTIFICATION OF THE PARTIES

3. The Plaintiff, R. H., is a resident of (Plaintiffs) Branch, Pike County Kentucky
4. The Defendant, PROFESSIONAL ENGINEER INDIVIDUALLY, is an individual residing at, (Street Address) , Prestonsburg, Kentucky, 41653.
5. The Defendant, NATURAL GAS PRODUCTION COMPANY., is a Pennsylvania domiciled corporation authorized to transact business in the Commonwealth of Kentucky and is doing business in Pike County, Kentucky with an office located at, PIKEVILLE, KY 41502 The agent for service of process is CT Corporation System, KY Home Life Building, Louisville, Kentucky 40202.
6. The Defendant, ENGINEERING COMPANY, is a Kentucky corporation authorized to transact business in the Commonwealth of Kentucky, and at all times relevant herein was doing business in Pike County, Kentucky. Its' principal office is located (Street Address) ., Lexington, Kentucky 40507. The agent for service of process is (Process Agent) at (Street Address) , Lexington, Kentucky 40507. It is believed that Defendant PROFESSIONAL ENGINEER INDIVIDUALLY is an agent and employee of Defendant ENGINEERING COMPANY therefore ENGINEERING COMPANY is vicariously liable for the negligence of Defendant, PROFESSIONAL ENGINEER INDIVIDUALLY.

## GENERAL ALLEGATIONS

7. In 2006, the Defendants collectively or as agents for each other where engaged in the surveying of a gas well and access area to said gas well going through and on the Plaintiff's property. In the process of surveying said wells the Defendants collectively began the process of conducting a survey of the site and property and to place stakes and/or markers at various points on Plaintiff's property.

8. The Defendants, jointly and severally, had a duty to use upmost care in the planning and surveying of its well sites and all access roads thereto, so as not to create any dangerous conditions that have the potential to harm the general public and their property interests, including but not limited to the Plaintiff herein.

9. That the Defendants, collectively, knew or should have known without the use of due care that the Plaintiff would use the existing road on Plaintiffs property for farm purposes.

10. That on November 28, 2006 the Plaintiff was operating his off road farm vehicle along Plaintiff's existing road, when a survey stake/marker became wedged underneath said vehicle causing the Plaintiff to be unable to steer the vehicle and causing it to run on the hill and injuring the Plaintiff. Therefore, the Defendants were negligent in placing the survey stake/marker and caused Plaintiff's injuries.

11. On information and belief, each of the Defendants named herein were responsible for one or more of the following matters or tasks in connection with the surveying of said gas well and access roads which was underway prior to and on the day Plaintiff sustained the damages described below, including, but not limited to:

- (a) Preparation, review, and/or approval of construction documents, including but not limited to designs, plans, drawings, and specifications;
- (b) Preparation, review, and/or approval of the design of the gas well access roads, including the gas well access roads and their installation;
- (c) Preparation, review and/or approval of the excavation specifications and/or

placement of survey stakes and markers relating to the gas well and access roads

(d) Designation, review, and/or approval of the specific site location for each of the gas well access roads;

(e) Excavation, or oversight of the excavation of the gas well access roads and water diversion ditches which failed causing the damages complained of herein;

(f) Act as either project manager, construction manager, owner's representative, or in other similar capacity, whose duties also include, but are not limited to, obtaining, reviewing, and/or approving all construction designs, plans, drawings, and specifications and exercising due care as to provide for the safety of all persons and adjacent landowners and citizens.

(g) Evaluate site conditions and construction methods in order to ensure the safety of all the of the citizens of Pike County and their real property.

12. That the Defendants collectively breached all the above duties thereby causing the injuries and damages described herein below.

### **COUNT 1**

#### **STRICT LIABILITY ABNORMALLY DANGEROUS ACTIVITY**

13. That the plaintiff hereby adopts and reiterates each and every allegation made herein and incorporates the same by reference.

14. That the defendants where engaged in the activity of gas well drilling and access road preparation in a location and area which causes said actions to be an abnormally dangerous activity pursuant to the Restatement 2<sup>nd</sup> of Torts §520 and defendants' are therefore strictly liable for any and all damages incurred by Plaintiff.

15 That as a result of the defendant's abnormally dangerous activity, the plaintiff has been damaged in an amount in excess of the jurisdictional limits of this Court, said damages which include, but are not limited to, personal property damage,

serious physical injury and severe emotional distress.

16. Furthermore, Plaintiff, was caused to serious pain, suffering, mental anguish, and will continue to suffer such in the future. Further, Plaintiff has incurred and may incur future medical expenses and physician expenses.

## COUNT 2 NEGLIGENCE

17. The plaintiff, does hereby adopt and reiterate each and every allegation made herein and incorporates the same by reference.

18. The Defendants, jointly and severally, negligently caused a survey stake/marker to be placed in the Plaintiff's existing farm road, and negligently failed to properly design, place or survey the said stake/marker mentioned herein.

19. As a direct and proximate result of the negligence described above, the plaintiff has been damaged in an amount in excess of the jurisdictional limits of this Court as mentioned herein above in Count 1.

WHEREFORE, Plaintiff demands Judgment against each Defendant, in favor of Plaintiff, for the following elements of damages, in amount(s) to be proven at trial, but in excess of the jurisdiction of the Court, said amount(s) determined as being fair and reasonable by all the evidence:

1. Judgment against the defendants, in an amount in excess of the jurisdictional limits of this Court for the following elements of damage:
  - a) personal property damage;
  - b) Past mental and physical pain, suffering and inconvenience.
  - C) Future mental and physical pain, suffering and inconvenience.
  - D) Future medical expenses, past medical expenses
2. Trail by Jury.

3. Pre-Judgment and post-judgment interest.
4. Costs and expenses incurred herein.
5. Attorney's fees incurred herein.
6. Any and all other relief to which plaintiffs may appear entitled.

Respectfully submitted,

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