

CLASS DISMISSED: OHIO COURT STRIKES CLASS ACTION ALLEGATIONS IN A QUIET TITLE DISPUTE

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As drilling activity and production in the Appalachian region stabilized (and even began to move upward) at the end of 2020, class actions continue to be used in creative ways by plaintiffs raising a variety of claims and forms of relief. Recently, however, an Ohio appellate court affirmed dismissal of class action allegations in a quiet title dispute, finding that a class action is an improper means to determine which class members actually own a property interest and the extent of each purported interest.

In *Baker v. Gulfport Energy*,¹ the original owners severed their property by selling the surface estate but reserved a three-fourths interest in the mineral estate.² In 2013, the property was leased to an oil and gas developer, and wells entered production two years later.³ A collection of heirs to the severed mineral estate were not included on the lease and were not paid any royalties.⁴ In 2018, those heirs filed a class action complaint, seeking to quiet title and other damages.⁵ The defendant filed a motion to strike class allegations as inappropriate to resolve a “typical land dispute.”⁶ The plaintiffs responded that class certification was necessary because there were over 100 possible heirs, many of which would be unable to bring claims individually.⁷ However, much of the class purportedly owned only fractional interests that differed from heir to heir.⁸ Thus, the trial court held that class certification was inappropriate in this context, citing the plaintiffs’ failure to include “[a]ll parties with any claims to the property, or material interests that might be affected, [who] are considered necessary and indispensable to an action to quiet title.”⁹

On appeal, plaintiffs argued that class certification was appropriate under Ohio Rule 23(B)(2) and 23(B)(3).¹⁰ The Ohio Seventh District Court of Appeals disagreed, noting that Rule 23(A) lists certain preconditions that must be met before a trial court can certify a class under the Rule 23(B) provisions.¹¹ In particular, Rule 23(A)(1) requires that joinder of all class members is “impracticable.”¹² However, in this case, joinder was “necessary” to resolve plaintiffs’ quiet title action.¹³ Thus, plaintiffs could not satisfy all the Rule 23(A) preconditions, rendering the Rule 23(B) analysis unnecessary.¹⁴

Critically, the court also distinguished prior cases certifying a class to quiet title after a lease had expired.¹⁵ The court observed that in the prior cases, all class members were discernable via the leases they entered into, and the court was merely tasked with interpreting the lease.¹⁶ However, the proposed class in *Baker* would have tasked the court with “determining who owns an interest and what portion of the whole interest each person owns among more than one hundred heirs,” and a “class action is not the proper vehicle to determine the rights of [such] parties.”¹⁷ Accordingly, the court of appeals affirmed the trial court’s opinion and struck the class allegations.¹⁸

Given the likelihood of title issues and a multitude of heirs to mineral interests in the Appalachian basin, oil and gas companies faced with class action exposure should be diligent in evaluating the claims and available

defenses. In light of *Baker*, the defense of lack of indispensable parties within the purported class could prove persuasive in Ohio and surrounding jurisdictions.

FOOTNOTES

[1] *Baker v. Gulfport Energy Corp.*, 2020-Ohio-4825, 2020 WL 5949820 (Ohio Ct. App. Sept. 28, 2020).

[2] *Id.* at ¶ 2.

[3] *Id.* at ¶ 3.

[4] *Id.*

[5] *Id.* at ¶ 4.

[6] *Id.* at ¶ 10.

[7] *Id.*

[8] *Id.*

[9] *Id.* at ¶ 19.

[10] *Id.* at ¶ 14.

[11] *Id.* at ¶ 15.

[12] *Id.* at ¶ 16.

[13] *Id.* at ¶ 21. The court held that “the proposed class excludes parties necessary to the full determination of the ownership claims,” namely, any heirs who had entered into a lease with the defendant and potentially any individuals who opt out pursuant to class action rules. *Id.*

[14] *Id.* at ¶ 23. The court also refused class certification on the remaining damages claims because “the quiet title issues must be resolved before the remaining claims can be analyzed.” *Id.* at ¶ 20.

[15] *Id.* at ¶¶ 22–23.

[16] *Id.* at ¶ 23.

[17] *Id.*

[18] *Id.* at ¶ 24.

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