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BRIAN S. DANIEL
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CLARK COUNTY, ARKANSAS

**IN THE CIRCUIT COURT OF CLARK COUNTY, ARKANSAS
CIVIL DIVISION**

**BRANDON BEENE
and
KORTNI BEENE**

PLAINTIFFS

V. CASE NO. 10CV-2023- 115

**MILL CREEK INVESTORS GROUP, LLC.
GOOD OLE BOYS HOLDING CO., LLC.,
PRECISION EXCAVATING, LLC.,
CITY OF ARKADELPHIA, GARY BRINKLEY, as
City Manager of the CITY OF ARKADELPHIA,
JOHN DOES 1 and 2, and JOHN DOE ENTITIES 1 and 2**

DEFENDANTS

COMPLAINT FOR DECLARATORY JUDGMENT

COMES NOW the Plaintiffs Brandon Beene and Kortni Beene, by and through their attorneys, the Sexton Firm, and for their Complaint for Declaratory Judgment against Defendants, pursuant to *Arkansas Rules of Civil Procedure 57* and *Arkansas Code § 16-111-101, et seq.*

PRELIMINARY STATEMENT

1. This is a Complaint for Declaratory Judgment to determine property rights between the Plaintiffs and Defendants, for a declaration that the Defendants have trespassed, have been unjustly enriched, and that they have failed to exercise any remedy that would lawfully allow them to take property from another.

PARTIES

2. Plaintiff Brandon Beene is and was at all times relevant to this action, a resident of Arkadelphia, Clark, Arkansas.

3. Plaintiff Kortni Beene is and was at all times relevant to this action, a resident of Arkadelphia, Clark, Arkansas.

4. Defendant Mill Creek Investors Group LLC. was at all times relevant a registered corporation with the Arkansas Secretary of State with its principal place for business at 165 Shelton Road, Arkadelphia, AR 71923. Defendant Mill Creek Investors Group LLC. registered agent for service of process according to the Arkansas Secretary of State is Nicky Goff, 165 Shelton Road, Arkadelphia, AR 71923

5. Defendant Good Ole Boys Holding Co., LLC was at all times relevant a registered corporation with the Arkansas Secretary of State with its principal place for business at 165 Shelton Road, Arkadelphia, AR 71923. Defendant Good Ole Boys Holding Co., LLC's registered agent for service of process according to the Arkansas Secretary of State is Nicky Goff, 165 Shelton Road, Arkadelphia, AR 71923.

6. Defendant Precision Excavating, LLC. was at all times relevant a registered corporation with the Arkansas Secretary of State with its principal place for business at P.O. Box 1330, Alexander, Arkansas 72002. Defendant Precision Excavating, LLC's registered agent for service of process according to the Arkansas Secretary of State is Kyle Smith, 8952 Mars Hill Road, Bauxite, Arkansas 72011.

7. Defendant City of Arkadelphia was at all times relevant a municipal corporation with its principal place for business at 700 Clay St # 218, Arkadelphia, Arkansas 71923. Defendant City of Arkadelphia's registered agent for service of process pursuant to Arkansas Rules of Civil Procedure 4(f)(14) shall be served upon the mayor, city manager, city administrator, or city clerk. Arkadelphia City Manager is Gary Brinkley.

8. The identity and residency of John Doe 1-2 and John Doe Entities 1-2 are unknown to the Plaintiffs, and therefore, Plaintiffs sue said Separate Defendants under these fictitious names. On information and belief, John Doe 1-2 and John Doe Entities 1-2, (I) are directly associated with the wrongful acts and omissions described herein, although the full extent of their involvement is unknown at this time, OR (II) conspired with the named parties in this case in the performance of the wrongful acts and omissions described below, although the full extent of their involvement is unknown at this time, OR, (III) acted as principals or agents, actual or ostensible, or other named parties in this case associated with the wrongful acts and omissions described below, although the full extent of their involvement is not known at this time. Plaintiff thus believes that John Doe 1-2 and John Doe Entities 1-2, are liable for the damages and for other relief sought in this case as participants, co-conspirators, principals or agents, or are otherwise necessary or indispensable parties to the adjunction of the issues involved in this case. When the true names and capacities of John Doe 1-2 and John Doe Entities 1-2 have been ascertained, appropriate amendments of this Complaint will be filed.

9. Plaintiffs' counsel executed a "John Doe Affidavit" in accordance with A.C.A. §16-56-125, and is attached hereto as **Exhibit A**.

10. The subject of this cause of action occurred in Arkadelphia, Clark County, Arkansas

JURISDICTION AND VENUE

11. The Court has jurisdiction pursuant to Arkansas Rules of Civil Procedure 57 and *Arkansas Code* § 16-111-101, *et seq.*. Venue is proper in Clark County, Arkansas, because a substantial part of the events or omissions giving rise to the cause of action occurred in Clark County, and Plaintiffs reside in Clark County.

GENERAL ALLEGATIONS

12. Plaintiffs Brandon Beene and Kortni Beene reside at 123 Gorman Loop, Arkadelphia, Arkansas.

13. Plaintiffs own a separate piece of property on a empty lot directly behind their residence consisting of approximately 3.3 acres.

14. On or about July 5, 2022, Plaintiff Brandon Beene encountered individuals trespassing on their property and utilizing an excavator with the intent of placing a water line for a nearby housing development.

15. These individuals were believed to be a City of Arkadelphia employee and employees of the above-named Defendants.

16. The City of Arkadelphia employee told the Plaintiff Brandon Beene that they had an easement that allowed them to place the line.

17. The City of Arkadelphia employee was unable to produce the easement.

18. Plaintiff Brandon Beene requested these individuals delay the installation until such time as they could provide proof of the easement that allowed them to place the line at that location.

19. These individuals left but returned on July 6, 2022, and placed the line on the Plaintiffs' property without their consent or approval, taking a portion of the Plaintiffs' property.

20. Plaintiffs contacted the Clark County Sheriff's Department on July 6, 2022, to report the trespass and taking on their property. It was stated to my clients and the Sheriff's Department that the additional line was being placed with the authority of an easement that the City of Arkadelphia possessed.

21. To date, a valid easement authorizing such action has not been produced.

DECLARATORY RELIEF AGAINST DEFENDANTS

22. The allegations of paragraphs 1-21 are incorporated as if fully set forth herein.

23. An actual, present, and existing controversy has arisen between Plaintiffs and Defendants with respect to the Plaintiffs' property.

24. Plaintiffs seek a declaration that Defendants trespassed, and unlawfully made a taking of Plaintiffs' property without just compensation.

25. The Plaintiffs seek a declaration that the Defendants have been unjustly enriched to the detriment of the Plaintiffs.

26. The Plaintiffs seek a declaration that a business entity or individual seeking to take land of another's, their remedies are to either purchase the land, purchase an easement, or gain consent from the landowner.

27. The Plaintiffs seek a declaration that the Defendants have not exercised any of these remedies.

28. The Plaintiffs seek a declaration that the City of Arkadelphia does not have an easement to add additional lines through Plaintiffs' property. That they have been unjustly enriched to the detriment of the Plaintiff. That the City of Arkadelphia's remedies for taking someone's property would be eminent domain, a valid easement, or consent by the landowner.

29. The Plaintiffs seek a declaration that the City of Arkadelphia has not exercised any of these remedies.

30. The Plaintiffs seek a declaration that they are entitled to attorney's fees, and litigation costs incurred in the prosecution of this claim for a declaratory judgment.

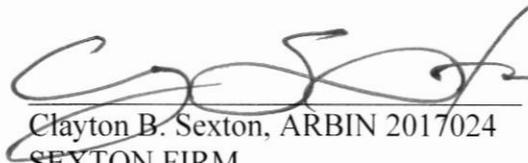
WHEREFORE, Plaintiffs Brandon Beene and Kortni Beene respectfully requests the Court grant relief as follows:

(a) Declare that the Defendants trespassed on the Plaintiffs' property when they returned to complete the job after Plaintiffs requested that the project be delayed until valid easement could be presented;

- (b) Declare that the Defendants do not have a valid easement;
- (c) Declare that the Defendants unlawfully took Plaintiffs' property without just compensation;
- (d) Declare that the Defendants were unjustly enriched to the detriment of the Plaintiffs;
- (e) Declare that the Defendants had other remedies to obtain the property, but has failed to exercise any of the available remedies;
- (f) Award attorney's fees and litigation costs in the prosecution of this declaratory judgment; and
- (g) Grant such other and further relief as is deemed just and proper.

Dated this 5th day of July, 2023.

Respectfully Submitted,



Clayton B. Sexton, ARBIN 2017024
SEXTON FIRM

107 N. 26th Street

Arkadelphia, AR 71923

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Facsimile: (870) 345-4155

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Attorney for Plaintiffs

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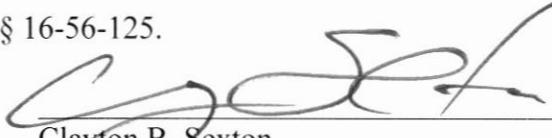
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AFFIDAVIT

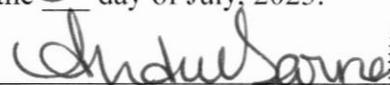
COMES NOW Clayton B. Sexton, and states upon oath, the following:

1. I represent Plaintiffs, Brandon Beene and Kortni Beene, in the above-styled matter.
2. Plaintiffs, Brandon Beene and Kortni Beene, are seeking a judgment against unknown tortfeasors.
3. The names of the unknown tortfeasors in this action will be designated by the pseudo-names John Does Entities 1-2 and John Doe 1-2, and will be named as such in the Plaintiffs' Complaint.
4. Upon determining the identity of John Doe Entities 1-2 and John Doe 1-2, the Complaint will be amended by substituting the real name for the pseudo-name.
5. This affidavit is made pursuant to A.C.A. § 16-56-125.


Clayton B. Sexton

07/05/2023
Date

SWORN AND SUBSCRIBED before me on the 5th day of July, 2023.


NOTARY PUBLIC

My Commission Expires:
September 28, 2031

