

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
WHEELING DIVISION**

**Mark McEvoy, et al.,  
Plaintiffs,**

**v.**

**Diversified Energy Company PLC, et al.,  
Defendants.**

**Civil Action No. 5-22-cv-171  
Judge John P. Bailey**

---

**EQT DEFENDANTS' JOINDER IN DIVERSIFIED DEFENDANTS'  
MOTION TO DISMISS AND MOTION TO STAY**

---

Pursuant to Federal Rule of Civil Procedure 12(b)(6), the EQT Defendants fully join in the Diversified Defendants' request that the Court enter an order dismissing each of Plaintiffs' claims.<sup>1</sup> The reasons for dismissal set forth in the Diversified Defendants' Motion to Dismiss and accompanying Memorandum of Law apply with full force to the claims asserted against the EQT Defendants. In short, as explained by the Diversified Defendants, Plaintiffs' fraudulent transfer claims (which are the only claims asserted against the EQT Defendants) should be dismissed because: 1) the tort claims should be dismissed, and Plaintiffs have no standing to pursue the fraudulent transfer claims without the tort claims, and 2) the statute of limitations bars the constructive fraudulent transfer claim. Accordingly, Plaintiffs fail to state claims for which relief can be granted against the EQT Defendants. To avoid duplicating the Diversified Defendants' briefing, the EQT Defendants' join their Motion to Dismiss and Memorandum of Law in full.

---

<sup>1</sup> "Plaintiffs" are Mark McEvoy, James Tawney, Susan Tawney, Samuel Stark, Susan Dennison, Mark Goff, Carol Delrosso, and George Delrosso; "Diversified Defendants" are Diversified Energy Company PLC, Diversified Gas & Oil, PLC, Diversified Production LLC, Diversified Gas & Oil Corporation, Diversified Oil and Gas LLC, and Alliance Petroleum Corporation; "EQT Defendants" are EQT Production Company, EQT Production HTW, LLC, EQT Energy, LLC, EQT Investment Holdings, LLC, EQT Gathering, LLC, EQM Midstream Partners LP, EQT Midstream Partners LP, EQT GP Holdings, LP, and EQT Corporation; collectively, the Diversified Defendants and the EQT Defendants are the "Defendants".

Likewise, the EQT Defendants fully join in the Diversified Defendants' Motion to Stay Discovery. Dismissal of one or more of the fraudulent transfer claims could substantially reduce or eliminate the need for certain discovery. For the reasons set forth by the Diversified Defendants, the Court should issue a stay of discovery pending disposition of the Motion to Dismiss.

Therefore, pursuant to the Federal Rules of Civil Procedure, including Rule 10(c), the EQT Defendants adopt and incorporate by reference: 1) the Diversified Defendants' Motion to Dismiss and all arguments therein, including the accompanying Memorandum of Law and attachments thereto (Dkt. 44), and 2) the Diversified Defendants' Motion to Stay and all arguments therein (Dkt. 45).

Respectfully submitted:

Dated: September 29, 2022

/s/ Jennifer J. Hicks

Jennifer J. Hicks, Esquire (WVSB #11423)  
Tiffany M. Arbaugh, Esquire (WVSB #9982)  
**BABST, CALLAND, CLEMENTS & ZOMNIR, P.C.**  
300 Summers Street, Suite 1000  
Charleston, WV 25301  
Phone: (681) 205-8888  
Fax: (681) 205-8814  
Email: [jhicks@babstcalland.com](mailto:jhicks@babstcalland.com)  
[tarbaugh@babstcalland.com](mailto:tarbaugh@babstcalland.com)

Anna Rotman, P.C. (*pro hac vice*)  
Nick Brown (*pro hac vice*)  
**KIRKLAND & ELLIS LLP**  
609 Main Street  
Houston, TX 77002  
Phone: (713) 836-3600  
Fax: (713) 836-3601  
Email: [anna.rotman@kirkland.com](mailto:anna.rotman@kirkland.com)  
[nick.brown@kirkland.com](mailto:nick.brown@kirkland.com)

Mark K. Dausch, Esquire (WVSB #11655)  
**BABST, CALLAND, CLEMENTS & ZOMNIR, P.C.**  
603 Stanwix Street  
Pittsburgh, PA 15222  
Phone: (412) 394-5655  
Fax: (412) 394-6576  
Email: [mdausch@babst.calland.com](mailto:mdausch@babst.calland.com)

*Counsel for Defendants EQT Production Company, EQT Production HTW, LLC, EQT Energy, LLC, EQT Investment Holdings, LLC, EQT Gathering, LLC, EQM Midstream Partners LP, EQT Midstream Partners LP, EQT GP Holdings, LP, and EQT Corporation*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
WHEELING DIVISION**

**Mark McEvoy, et al.,  
Plaintiffs,**

**v.**

**Diversified Energy Company PLC, et al.,  
Defendants.**

**Civil Action No. 5-22-cv-171  
Judge John P. Bailey**

---

**CERTIFICATE OF SERVICE**

The undersigned, as counsel for Defendants EQT Production Company, EQT Production HTW, LLC, EQT Energy LLC, EQT Investment Holdings, LLC, EQT Gathering, LLC, EQM Midstream Partners LP, EQT Midstream Partners, LP, EQT Midstream Partners LP, EQT GP Holdings, LP and EQT Corporation hereby certifies that a true and correct copy of the foregoing **EQT DEFENDANTS' JOINDER IN DIVERSIFIED DEFENDANTS' MOTION TO DISMISS AND MOTION TO STAY** was filed this 29<sup>th</sup> day of September 2022, through this Court's CM/ECF system, which will send a notice of the electronic filing to the following:

William S. Flynn, Esquire  
Brian R. Swiger, Esquire  
Brian A. Glasser, Esquire  
John W. Barrett, Esquire  
Athanasios Basdekis, Esquire  
William Flynn, Esquire  
Panida Anderson, Esquire  
Bailey & Glasser, LLP  
209 Capitol Street  
Charleston, WV 25301  
[bswiger@baileyglasser.com](mailto:bswiger@baileyglasser.com)  
[bglasser@baileyglasser.com](mailto:bglasser@baileyglasser.com)  
[jbarrett@baileyglasser.com](mailto:jbarrett@baileyglasser.com)  
[tbesdekis@baileyglasser.com](mailto:tbesdekis@baileyglasser.com)  
[wflynn@baileyglasser.com](mailto:wflynn@baileyglasser.com)  
[panderson@baileyglasser.com](mailto:panderson@baileyglasser.com)

*Counsel for Plaintiffs and Proposed Class*

Joseph M. Lovett, Esquire  
Benjamin A. Lockett, Esquire  
J. Michael Becher, Esquire  
Appalachian Mountain Advocates  
PO Box 507  
Lewisburg, WV 24901  
[jlovett@appalmad.org](mailto:jlovett@appalmad.org)  
[bluckett@appalmad.org](mailto:bluckett@appalmad.org)  
[mbecher@appalmad.org](mailto:mbecher@appalmad.org)

*Counsel for Plaintiffs and Proposed Class*

Howard M. Persinger, III, Esquire  
Persinger & Persinger, L.C.  
237 Capitol Street  
Charleston, WV 25301  
[Hmp3@persingerlaw.com](mailto:Hmp3@persingerlaw.com)

*Counsel for Defendants Diversified Energy Company, PLC,  
Diversified Gas & Oil, PLC, Diversified Production, LLC,  
Diversified Gas & Oil Corporation, Diversified Oil and Gas LLC and  
Alliance Petroleum Corporation*

Ragan Naresh, P.C.  
Daniel T. Donovan, P.C.  
Kirkland & Ellis, LLP  
1301 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
[Ragan.naresh@kirkland.com](mailto:Ragan.naresh@kirkland.com)  
[Daniel.donovan@kirkland.com](mailto:Daniel.donovan@kirkland.com)

*Counsel for Defendants Diversified Energy Company, PLC,  
Diversified Gas & Oil, PLC, Diversified Production, LLC,  
Diversified Gas & Oil Corporation, Diversified Oil and Gas LLC and  
Alliance Petroleum Corporation*

*/s/Jennifer J. Hicks*

\_\_\_\_\_  
Jennifer J. Hicks (WV Bar #11423)